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BRITISH COLUMBIA

Guidelines for developing bylaws under the *Health Professions Act*

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1. Purpose of these Guidelines

The Ministry of Health and Ministry Responsible for Seniors is providing these Guidelines to colleges established under the *Health Professions Act* for several purposes. The Guidelines incorporate Model Bylaws which may be used as a working precedent by new boards in the drafting process to enable these colleges to become operational as soon as possible. Many provisions of the Model Bylaws are intended to provide guidance only and may be modified to reflect the particular requirements and circumstances of each profession. In a number of instances, for example, the Model Bylaws suggest administrative provisions which are not essential from the perspective of the Ministry of Health but which may assist in the administration of the college. A college may also wish to examine the bylaws of other self-governing professional bodies both within and outside British Columbia to obtain other precedents.

The Model Bylaws also indicate certain essential elements which must be included in order for any proposed bylaws to obtain government approval. For example, the *Health Professions Act* provides that no bylaw will be approved unless appropriate provision is made for the election of registrants to the board and for the duties and objects listed in section 16 of the Act. Other essential provisions are those which ensure that the interests of registrants, board members, consumers, complainants and the general public are protected. Commentary has been added throughout these revised Model Bylaws to provide additional information regarding government policy in these areas.

In addition to the Model Bylaws, these Guidelines contain discussions of the duties of the board, of conflicts of interest, and of the bylaw approval process. The Guidelines also provide a summary outlining the disciplinary process under the *Health Professions Act*, a summary of key provisions of the *Freedom of Information and Protection of Privacy Act*, a reproduction of portions of a government report detailing methods for the safe storage of records and sample board resolutions approving or amending bylaws.

2. Synopsis of Model Bylaws

The Model Bylaws provide for the operation of colleges established under the *Health Professions Act*. Part 1 of the Model Bylaws sets out the composition of the college board and its various committees, including the registration committee, the inquiry committee, the discipline committee, the quality assurance committee and the patient relations committee. A college may also wish to establish an executive committee and a finance and administration committee. This part of the Model Bylaws also provides for the election of board members, the conduct of board meetings and for the remuneration of board and committee members.

Part 2 governs the general operation and administration of the college. The duties of the auditor and the fiscal responsibilities of the board are established and provision is made for a college seal and for the board to obtain legal advice. Suggested rules for the conduct of general meetings of registrants are also provided.

Part 3 provides for matters relating to college records which are not already covered by the *Freedom of Information and Privacy of Protection Act*.

Part 4 provides for the registration of college members. Categories of registration include full registration, limited registration, non-practising registration, student registration, temporary registration and honorary registration. A college may also wish to establish a category of grandparented registration to provide for a one-time entry into the profession by experienced persons currently practising in a capacity substantially equivalent to a full registrant. The entry level requirements for each class of registration are established and provision is made for the registration committee to set and conduct examinations.

Part 5 sets out several procedural matters pertaining to inspections, investigations and disciplinary hearings which are not already covered by the *Health Professions Act*.

Part 6 contains provisions dealing with health records retained by registrants, including provisions relating to the creation, use, disclosure, storage, retention and disposal of and patient access to these records.

Part 7 provides for matters relating to health profession corporations which are not already covered by the *Health Professions Act*. These matters include the application process for obtaining a health profession corporation permit and the procedural requirements to be followed by the board during a permit revocation hearing.

Part 8 contains miscellaneous sections requiring registrants to obtain adequate liability insurance and restricting the advertising of professional services by registrants. A review process is also established to resolve any billing disputes between patients and registrants.

3. Drafting notes

College staff are strongly encouraged to consult with staff from the Ministry of Health and Ministry Responsible for Seniors from the initial drafting stages to avoid any difficulties that may arise regarding policy issues when the bylaws are presented to Cabinet for approval. Boards should also note that, although these Model Bylaws were drafted by Ministry staff, they are provided primarily to provide guidance on policy issues rather than on legal issues. Therefore, it is recommended that boards draft their bylaws in consultation with a lawyer to ensure that there is statutory authority for each provision. Obtaining the advice of a lawyer will reduce the likelihood of possible legal challenges to the bylaws in the future.

The *Health Professions Act* is the governing legislation under which regulations and the bylaws are made. **It is important that the bylaws do not duplicate or paraphrase the provisions of the *Act* or regulations as any differences in wording may imply that the provisions have different meanings and may raise difficult questions of interpretation.** For educational purposes, colleges may wish to prepare and provide to their members annotated copies of the bylaws referencing the Act and regulations.

The Model Bylaws are one of many sources of information that may be used in the drafting process. For example, the bylaws of other health professions both within and outside British Columbia may provide a valuable range of precedents. Useful sources of information regarding procedures at meetings include the most recent edition of *Robert's Rules of Order*[1] and the British Columbia *Society Act*. The *Society Act* also contains Model Bylaws which may provide model provisions respecting the general administration of the college. In addition, reference may be made to texts on administrative law or on the regulation of professions in Canada[2]. Note that numbers or dates in square brackets within the Model Bylaws indicate that the quantity or time limit is variable and has only been arbitrarily set in the text.

Colleges are specifically bound by several provincial statutes, which are referenced in the Model Bylaws, including the *Freedom of Information and Protection of Privacy Act* and the *Criminal Records Review Act*. Copies of these Acts may be obtained from Crown Publications Inc. at 521 Fort Street, Victoria, BC V8W 1E7 (tel: 386-4636, fax: 386-0221).

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1 *Robert's Rules of Order*, (Jove Books; New York, 1988).

2 See for example, Robert MacCauley, *Practise and Procedure Before Administrative Tribunals* (Carswell; Scarborough, Ontario, 1988), Keith R. Hamilton, *Self-Governing Professions*: Digests of Court Decisions (Canada Law Book Company), and James T. Casey, *The Regulation of Professions in Canada* (Carswell; Scarborough, Ontario, 1994).

4. Duties of the board

The *Health Professions Act* requires that the first set of bylaws not be approved by Cabinet unless appropriate provision has been made for each of the duties and objects of the board. These duties and objects are set out in section 16 of the Act, reproduced below:

Duties and objects of a college

16 (1) It is the duty of a college at all times

(a) to serve and protect the public, and
(b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.

(2) A college has the following objects:

(a) to superintend the practice of the profession;
(b) to govern registrants according to this Act, the regulations and the bylaws of the college;
(c) to establish, monitor and enforce standards of education and qualifications for registrant of registrants;
(d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registrants;
(e) to establish and maintain a continuing competency program to promote high practice standards amongst registrants;
(f) to establish, for a college designated under section 12(2)(h), a patient relations program to seek to prevent professional misconduct of a sexual nature;
(g) to establish, monitor and enforce standards of professional ethics amongst registrants;
(h) to require registrants to provide to an individual access to the individual's health care records in appropriate circumstances;
(i) to inform individuals of their rights under this Act, the regulations and the bylaws of the college and the *Freedom of Information and Protection of Privacy Act*;
(j) to administer the affairs of the college and perform other duties through the exercise of the powers conferred by this Act, the regulations or the bylaws.

Section 16 of the *Health Professions Act* constitutes the most important provision of the bylaws with respect to the governance of the profession by the college. This section is fundamental to board operations and should govern all continuing activities of the board.

5. Conflict of interest

Issues respecting conflict of interest raise a number of exceedingly important considerations for colleges. When one has a duty to protect another person, the possibility arises for one's own personal interests to create a conflict that might prejudice the protected person's interests. Legal principles have been developed as safeguards to prevent such situations from occurring. These principles ensure confidence is maintained that the protector will carry out his or her duties impartially in regard to actual conflicts of interest, and also situations which might reasonably be viewed as apparent conflicts of interest.

It is obvious that colleges of health professions, as protectors of the health and safety of the public, have a particular obligation to ensure that public confidence is maintained by avoiding actual or apparent conflicts of interest.

The term "conflict of interest" has been variously defined. A useful definition is that a conflict of interest arises in any situation in which one's personal interests (or the interests of a close friend, family member, business associate, corporation or partnership in which one holds a significant interest, or a person to whom one owes an obligation) may prevent one from acting in the best interests of the college, or from acting on behalf of the college in a way that is fair, impartial and without bias.

It is incumbent on all persons involved in the college to arrange their private affairs, and to conduct themselves, so as to avoid a conflict of interest, or the appearance of a conflict of interest.

Government is currently developing conflict of interest guidelines for members of agencies, boards and commissions. When these are finalized, they will be added as an addendum to this package of Guidelines. In the interim, boards may wish to address this issue through the development and enforcement of their Codes of Ethics.

6. Summary of Part 3 of the *Health Professions Act* (inspections, inquiries and the disciplinary process)

Part 3 of the *Health Professions Act* provides for the investigation of complaints made against a registrant and for the conduct of inquiries and disciplinary hearings. A brief summary of these provisions is provide below. Note that Part 5 of the Model Bylaws provides for additional matters relating to inspections, investigations and disciplinary hearings which are not already covered in the Act.

Complaints and investigations

The *Health Professions Act* provides that a person may make a complaint by delivering the complaint in writing to the registrar. The registrar then assesses the complaint and refers it to the inquiry committee with any recommendations (s. 32). At this point, the inquiry committee commences its investigation, although it should be noted that the inquiry committee may also commence an investigation on its own motion (s. 33). As part of the investigation, the inquiry committee requests the registrant to provide information regarding the matter which the registrant believes should be considered by the inquiry committee and may also direct an inspector to observe the registrant's practice or to inspect the registrant's premises and records (ss. 28-30, 33). Inspectors are appointed by the inquiry committee and their powers and duties are specified in the Act (ss. 27-28). It should be noted that the inquiry committee has a general duty under administrative law to act as expeditiously as possible to conclude the investigation.

Inquiries

After gathering sufficient information, the inquiry committee may decide that the matter does not warrant further action or may attempt to resolve the matter informally (s. 33). Alternatively, the inquiry committee may decide to request the registrant to consent to a reprimand or to provide certain undertakings. If the matter is of a more serious nature, the inquiry committee will direct the registrar to initiate a disciplinary hearing (ss. 33, 36). The board may review certain inquiry committee decisions and, after such a review, the board may also direct the registrar to initiate a disciplinary hearing (s. 34).

Disciplinary hearings

If a disciplinary hearing is required, the registrar provides notice of the hearing to the complainant and to the registrant. After conducting a public hearing, the discipline committee may dismiss the matter, reprimand the respondent, impose a fine, impose limits on the respondent's practice or suspend or cancel the registrant's registration (s. 39). These decisions may be appealed to the Supreme Court by the registrant, the complainant or by the board (s. 40).

Extraordinary action

Note that the inquiry and discipline committees have the power to take extraordinary action to protect the public at various stages of the process. This extraordinary action may consist of imposing a limit on or a suspension of the registrant's right to practise pending a hearing of the discipline committee. The registrant has the right to appeal such a decision to the Supreme Court (ss. 35, 40).

Injunctions

The college may investigate and discipline its own registrants but it does not have the jurisdiction to investigate and discipline non-registrants. However, the college may obtain injunctions to prevent any person from providing services that may only be provided by registrants (s. 52).

7. Summary of key provisions of the *Freedom of Information and Protection of Privacy Act*

The purpose of the *Freedom of Information and Protection of Privacy Act (FOIPPA)* is to provide the public with a right of access to records retained by public bodies, which include self-governing professional colleges, while at the same time protecting the privacy of individuals. Therefore, whenever a college collects, uses or discloses information of a personal nature, it must do so in accordance with the *FOIPPA* The following is a summary of some key provisions of the *FOIPPA* as they relate to professional colleges. Note that Part 3 of the Model Bylaws provides for additional matters relating to college records which are not already covered under the *FOIPPA*.

Collection, use and disclosure of personal information

The *FOIPPA* provides that, in general, a college may only collect personal information where the information is necessary for an operating activity of the college, for the purposes of an investigation or where required by statute (s. 26). The college must take reasonable steps to ensure that the information is accurate and that the information is collected in an authorized manner (ss. 26 - 29). A college may only use personal information or disclose it to others for the purpose for which it was obtained, for a use consistent with that purpose or where the individual has provided consent (s. 32). There are certain exceptions to this rule including the disclosure of the information for the purposes of an investigation leading to law enforcement proceedings (s. 33).

Information requests

Any person may make a request for information which is in the custody of the college, including a record including personal information about the applicant (s. 5). The "head" of the college for the purposes of administering the *FOIPPA* or other designated person must respond to the request without delay and no later than 30 days after the request is received (s. 7). Generally, the "head" of the college must allow the applicant to examine or copy the information unless one of the exceptions set out in the *FOIPPA* applies. For example, a request must be denied where the disclosure could unreasonably invade a third person's personal privacy. A request may also be denied where the disclosure could harm individual or personal safety or the financial interests of the college (Part 2).

Note that certain types of information are exempted from the *FOIPPA* including a record of an examination question or a draft decision of a person acting in a quasi judicial capacity -- for example, a member of the discipline committee (s. 3). Where a record containing personal information about the applicant contains information excepted from disclosure, that information may be severed from the record before the record is provided to the applicant.

Administering the *FOIPPA*

College boards must designate a person or committee as the "head" of the college for the purposes of administering the *FOIPPA* [s. 77(a)]. Other persons may also be designated by the board to perform any duty or exercise any function of the "head" of the college (s.77(b)). Duties of the "head" of the college are set out below:

Handling request for access to information (Part 2)

- deciding on severing a record (s.4)
- deciding on duty to create a record (s.6)
- deciding on content of response (s.8)
- deciding how access will be given (s.9)
- extending time limit for up to 30 days (s.10)
- requesting commissioner's permission to extend for longer period [s.10(1)]
- transferring a request (s.11)
- determining whether any exception applies (Part 2, Division 2)
- providing third party notice (s.23)
- providing notice of decision (s.24)

Protection of privacy

- handling request for correction of personal information (s. 29)
- ensuring that there is no unauthorized access, collection, use, disclosure or disposal of personal information by college members or staff (Part 3),
- providing notice of disclosure (s. 33(p))

Reviews and complaints

- making representations to the Commissioner during a review (s.56)
- providing disclosure on the order of the Commissioner (s.58)

General

- recording and notify the Minister of any use or disclosure for an unlisted purpose
- providing copies of directory, index of records and policy manuals to the public (ss.69-71)
- charging or waiving service fees for information requests (s.75)

Current copies of the *FOIPPA* may be obtained from Crown Publications at 546 Yates St., Victoria, B.C., V8W 1K8 (tel: 386-4636). A useful interpretive guide to the *FOIPPA* entitled *Information and Privacy Handbook, 2nd edition* may be obtained from Interact Public Policy Consultants Ltd., Suite 301, 1970 Haro Street, Vancouver, B.C., V6G 1H6 (tel: 669-6316).

8. Safe storage of records

It is recommended that the board draft written policies which detail methods of safe storage for physical records and records stored by electronic means. These policies may be drafted to ensure the safe storage of college and registrant records pursuant to sections 42 and 83 of the Model Bylaws. Chapter 8 of the *Review of the Storage and Disposal of Health Care Records*, report of Dr. Shaun Peck, Deputy Provincial Health Officer to the Minister of Health and Minister Responsible for Seniors, (Province of British Columbia, July 1995, pp. 12-15) is reproduced below as it may serve as a useful precedent in drafting these policies.

Chapter 8 Security of Health Care Records

The Privacy Commission in New Zealand published a health information and privacy code in 1994. The following detailed recommendations for the security of health care records have been adapted from this code and are provided here because of the excellent specificity of details that need to be identified by health care agencies for their health care records management.

Physical Security

Appropriate arrangements are needed for the adequate physical security of health records while in use and when in storage. The following suitable operational procedures are recommended:

- Physically secure areas storing health records;
- Take simple precautions with respect to paper records, such as locking filing cabinets, locking unattended rooms, etc.;
- Allow access to areas where health records are stored only to authorized personnel;
- Maintain control over the storage, availability and use of all computer storage media (disks, tapes etc.);
- Control access to areas where fax machines are located;
- Require all access keys, cards, passwords etc., to computer systems or networks to be physically secure or subject to well-defined and strictly enforced security procedures;
- Restrict access to documentation about installations and computer systems to authorized personnel;
- Position terminals and personal computers used for entering or manipulating health records so that they cannot be seen by unauthorized personnel;
- Use software programs which automatically blank the screen if the computer remains unused for a set period;
- Take precautions to protect paper records and computer equipment and data from fire, deterioration and other hazards;
- Enhance security awareness. Steps taken in this respect, such as policies to challenge unrecognised and unaccompanied visitors, will have added benefits with respect to controlling theft and promoting staff and patient safety.

Operational Security

Appropriate arrangements are needed for the adequate operational security of health records. The following suitable operational procedures are recommended:

- Enhance security awareness. Steps taken in this respect, such as policies to challenge unrecognized and unaccompanied visitors, will have added benefits with respect to controlling theft and promoting staff and patient safety;
- When contracting with all persons involved in the creation, collection, use and disclosure of health records, require compliance with the *Code of Practice for Ensuring the Confidentiality and Security of Health Records in British Columbia*, the *Freedom of Information and Protection of Privacy Act*, and outline responsibilities with respect to health records privacy and access;
- Withhold, as far as practical, access to health information from manufacturers or maintenance staff (this applies both to paper and electronic records);
- Make records anonymous for health education purposes and use fictitious records for training individuals in the use of systems;
- Change passwords at frequent and irregular intervals;
- Require persons making entries on health records to sign those entries;
- Keep health records, whether paper records, computer disks or tapes, on the agency's premises. Where staff are authorized to take health records off the premises they should be kept secure, for example, in a locked file or case;
- Maintain formal procedures for dealing with employees who are leaving the agency relating to such matters as reclaiming identity badges, passes, keys, etc. and the cancellation of passwords.

It may be practical and appropriate, e.g. in health research projects, to remove names from some records while in use and to use an identifier to ensure that identification of individuals is possible only by reference to a cross index.

For large computer installations, the following operational procedures are recommended:

- Maintain a list of personnel who are authorized to use the system;
- Check computer logs or system management output to detect unauthorized access;
- Develop rules as to levels of access and take steps to ensure that access to different categories of information in health records is available only to authorized users.

Technical Security

Appropriate arrangements are needed for the adequate technical security of health records. The following suitable operational procedures are recommended:

- Ensure data protection, back-up intervals and methods, disaster recovery plans, etc. are in place;

- Automatically validate, as far as possible, all data entered on systems to ensure accuracy;
- Validate software used for recording, processing, storage and retrieval of health records through detailed audit, and certify software is suitable for the uses to which it is put;
- Ensure that confidentiality measures are in place, when storing backup disks and tapes away from the main computer system, ideally in another building, to prevent loss;
- Adopt procedures to ensure data cannot be passed between computers or discrete systems within the same computer without authority;
- Take reasonable steps before a computer interface is established with a system to ensure the arrangement does not increase the risk of unauthorized access.

Security of Transmission

Appropriate arrangements are needed for adequate security in transmitting health records. Suitable operational procedures should be adopted which might include establishing guidelines controlling the use of mail, faxes, and E-mail, Internet, etc., for transmitting health records.

Facsimiles pose special problems in privacy, and special care is needed for transmitting confidential information. Where appropriately used, and subject to appropriate security safeguards, fax transmissions can provide a quick, effective and satisfactory means of communication. Problems primarily arise because transmissions can easily be sent to the wrong recipient in error. Often faxes are received at unattended machines. There is a risk of transmitting to the wrong machine at a large hospital or omitting to note that a health practitioner has changed their phone number or location.

Some of the following may be appropriate for the fax security policy for a health agency:

- Controls on types of information which may be sent by fax;
- Production and distribution of an official and regularly updated list of fax numbers assigned to clinics within a hospital (with a clear expiry date for each edition) to ensure fax numbers used are current and accurate;
- Regular checking of accuracy of pre-programmed numbers;
- Technical safeguards (from simple locks through to encryption facilities);
- Retention of fax activity history reports to check unauthorized transmissions, etc.;
- Careful checking of fax confirmation reports to ensure correct transmissions (and to enable rapid action if there is an incorrect transmission);
- Use of fax only by authorized staff with secure delivery to intended clinical staff;
- Use of unique identifiers or code numbers for the report to ensure that transmission of confidential information about identifiable individuals does not occur;

- Locating fax machines out of public areas with controlled access;
- Making telephone calls before transmissions.

Accountability for Security

Policies must show who is responsible for the security of the information (responsible keepers). Audit trails (either electronic, in the case of computer records, or paper, in case of manual records) must show who accessed the information.

The key to protecting personal privacy in the health care context can be summarized in one word: **auditing** for compliance with fair information practices (see Section 11 for a discussion on fair information practices). There are two elements to auditing: the power to construct a data trail to follow all instances of access to a database for particular information, and the human capacity to conduct site investigations which can delve more deeply into the reasons for a particular request.

In each case, the deterrent effect will be the same: users of the health care information system will know in advance that their actions can be electronically traced and may well be randomly audited for compliance in any event.

The following is an example of auditing for automated patient records:

As a result of an allegation that staff had been inappropriately accessing certain patient records in a hospital, "The hospital's security task force had discovered that inappropriate access had occurred through a special audit trail of access by staff to the records of high-profile patients and of hospital staff who were patients. The hospital's computer system provides a clear record of who has had access and when. The security committee was able to determine who had accessed the record in the course of their staff duties and who had been "browsing." As a result of the audit, the hospital is reviewing the levels of access granted to various categories of staff. In addition, as part of a larger hospital-wide educational approach, the screens of the computer system feature messages advising users that usage of the system is being audited on a regular basis. These messages appear at random on screens." (Information and Privacy Commissioner of British Columbia. Investigation Report P95-005, March 31, 1995)

A copy of Dr. Peck's full report entitled *Review of the Storage and Disposal of Health Care Records* may be obtained by contacting the Office of the Provincial Health Officer of the Ministry of Health and Ministry Responsible for Seniors at 952-0876.

9. Bylaw approval process

There are a series of steps which are taken in the bylaw approval process once the bylaws have been formally submitted by a board to the Minister of Health and Minister Responsible for Seniors. Staff from the Legislation and Professional Regulation Division of the Ministry consult with other branches within the Ministry of Health and with other Ministries, including the Ministry of Education, regarding the substantive aspects of the bylaws. Related health professions, health organizations, practitioner associations, educational institutions and consumer groups are often also consulted with regard to these substantive issues.

The length of these consultations will vary depending on the issues raised and the extent to which the board and Ministry staff have engaged in discussions with these groups prior to the formal submission of the bylaws. Unforseen delays may be eliminated if there have been advance consultations with the Ministry and if other health professions have been provided with information at the earliest opportunity.

Note that the *Health Professions Act* requires that health professions be provided with three months notice of the new bylaws, although this time period may be shortened by the Minister in the appropriate circumstances, and that this notice may be provided in the publication produced by the Legislation and Professional Regulation Division of the Ministry of Health entitled the *Health Professions Bulletin*.

The bylaws are also provided to the Minister's legal advisors for a review of legal issues, including whether the bylaws conform to the principles of administrative law and natural justice. Legislative Counsel reviews the bylaws to ensure that there is sufficient authority within the enabling legislation for each provision and to consider whether there are any issues related to the Charter. The approval process will ordinarily proceed more quickly at this stage if the bylaws have already been reviewed by the college's lawyer.

Following these consultations, the Minister forwards the bylaws to Cabinet along with his or her recommendations for approval. Cabinet makes the final decision regarding whether or not to approve the bylaws (or portions of the bylaws), and this decision is given legal force and effect by an Order in Council signed by the Lieutenant Governor in Council. Although Cabinet generally meets on a weekly basis to review Orders in Council, including health professions bylaws, there are times where Cabinet meets less frequently and therefore the timing of the final approval of the bylaws may be dependent on Cabinet's schedule.

Once the initial bylaws are approved by Cabinet, the board may wish to make amendments to the bylaws from time to time. Generally, three months notice of any such amendments must be provided to other health professions in the same manner as the first set of bylaws, although here again the time period may be shortened by the Minister in appropriate circumstances.

10. Sample board resolution making or amending bylaws

RESOLUTION OF THE BOARD OF THE COLLEGE OF
OF BRITISH COLUMBIA MADE
THE DAY OF , 1996, [AT VANCOUVER,
BRITISH COLUMBIA] [or] [BY TELECONFERENCE]

RESOLVED THAT, in accordance with the au ity es d in section 18(1) of the *Health Professions Act*, and subject to e approv of the Lieutenant Governor in Council, the Board ke or mend] the B the College of of British Columbia, as in in the Schedule attached to this Resolution.

FIED A TRUE COPY

[Chair] [Registrar]

draft

SCHEDULE

The Bylaws made by the College of of British Columbia under the authority of the *Health Professions Act* are amended as follows:

1. Section 14(4) is amended by striking out " . . . " and substituting " . . . " .

2. Section 40 is repealed. [or "Section 40(2) is repealed."]

3. Section 44 is repealed and the following substituted:

   44. . . . .

4. Section 50 is amended by adding the following subsection after subsection (4):

   (4.1) . . . .

5. The following section is added after section 55:

   55.1 . . . .

6. Section 60 is amended

   (a) in subsection (1) by . . . ;

   (b) by repealing subsection (3).

7. Section [illegible] amended

   (a) by renumbering it as section [illegible](1); and

   (b) by adding the following subsection:

   [illegible](2) . . . .

(Note: the section numbers used in this draft schedule are for demonstration purposes only and are not relevant to the Model Bylaws.)

draft

Model Bylaws for colleges established under the *Health Professions Act*

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Definitions

1. In these bylaws,

"*Act*" means the *Health Professions Act;*

"appointed board member" means a person appointed to the board under section 17(3)(b) of the *Act*;

"board" means the board of the College;

"board member" means an appointed board member or an elected board member;

"chair" means the chair of the board elected under section 11;

"Code of Ethics" means the Code of Ethics set out in Schedule "A";

"college" means the College of British Columbia established by the regulation;

"deliver", with reference to a notice or other document, includes mail to or leave with a person, or deposit in a person's mailbox or receptacle at the person's residence or place of business;

"elected board member" means a person elected to the board under section 17(3)(a) of the *Act*;

"examination" means a theoretical examination, given orally or in writing, or a practical examination, or any combination of these, and includes a supplemental examination;

"personal information" means "personal information" as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act;*

"public representative" means a person who is not a registrant or former registrant or who has no close family or business relationship with a registrant or former registrant and includes an appointed board member;

"record" means a "record" as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act.*

"regulation" means the [ ] Regulation deposited under B.C. Reg. [xxx]/98;

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"respondent" means a registrant named in a citation under section 37 of the *Health Professions Act* [or a health profession corporation named in a notice of permit revocation hearing under section 98 of these bylaws];

"special resolution" is a resolution which requires a ¾ vote of those persons present and eligible to vote at a meeting;

"Standards of Practice" means the Standards of Practice set out in Schedule "B";

"vice-chair" means the vice-chair of the board elected under section 11.

"Personal information" and "records" are defined in the Freedom of Information and Protection of Privacy Act as follows:

"personal information" means recorded information about an identifiable individual, including

(a) the individual's name, address or telephone number,

(b) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,

(c) the individual's age, sex, sexual orientation, marital status or family status,

(d) an identifying number, symbol or other particular assigned to the individual,

(e) the individual's fingerprints, blood type or inheritable characteristics,

(f) information about the individual's health care history, including a physical or mental disability,

(g) information about the individual's educational, financial, criminal or employment history,

(h) anyone else's opinions about the individual, and

(i) the individual's personal views or opinions, except if they are about someone else; and

"record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records."

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PART 1 COLLEGE BOARD, COMMITTEES AND PANELS

Part 1 provides for the composition of the college board and its various committees and establishes the decision making processes of these bodies. This part of the Model Bylaws also provides for the election of board members and for the remuneration of board and committee members. The authority for these provisions is found in s. 19 (1) (a), (b), (e), (g), and (v) of the Health Professions Act.

There are several different ways to structure these bodies and their decision-making processes and a college board may wish to tailor these model provisions to suit its own requirements. However, note that this part of the bylaws must satisfy the requirements of the Health Professions Act including s. 17 which sets out the limitations on the composition of the board. In addition, the registration committee, inquiry committee, discipline committee, quality assurance committee and the patient relations committee must be established to provide for the objects of the college listed in s. 16 of the Act.

First board

1.1 (1) Despite section 1, for the purposes of Part 1 of these bylaws,

(a) "appointed board member" includes a person appointed under section 17(2)(a) of the *Act*, to represent the public on the first board, and

(b) "elected board member" includes a person appointed under section 17(2)(a) of the *Act* to represent the health profession on the first board.

(2) This section is repealed 90 days following the first election referred to in section 17(2)(a) of the *Act*.

Note that certain provisions are numbered with a decimal so that they may be removed from the bylaws at the appropriate time without the need to renumber the remaining bylaws.

Composition of the board

2. The board consists of [6] elected board members and the appointed board members.

Electoral districts

3. (1) The province of British Columbia is divided into [4] electoral districts whose boundaries are defined by [the map attached as OR the metes and bounds descriptions contained in] Schedule "C".

(2) The number of elected board members from each electoral district is:

(a) for [name of district][#],

(b) for [name of district][#],

(c) for [name of district][#], and

(d) for [name of district][#].

(3) The board may change the boundaries of an electoral district by a special resolution.

This section defining electoral districts is optional and is only included in the model for the convenience of those colleges that do not favour province-wide elections.

Notice of election

4. (1) The registrar must notify every registrant of an election by delivering notice at least [120] days prior to the expiry of the term of office.

(2) The notice must contain information about the nomination procedure and the election procedure.

Nomination procedure

5. (1) Any registrant may nominate for office a maximum of [2] registrants in good standing for each vacant position [from his or her electoral district], by delivering such nomination and election to the registrar, together with a letter of consent from the person nominated, at least [90] days prior to the expiry of the term of office.

(2) A person nominated under subsection (1) must declare in writing that he or she will observe the provisions of the *Act*, the regulations and these bylaws and the procedures related to the election and the conduct of the election.

Election procedure

6. (1) The registrar must prepare and deliver to each registrant an election ballot not less than [60] days prior to the expiry of the term of office.

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Election procedure

6. (1) The registrar must prepare and deliver to each registrant an election ballot not less than [60] days prior to the expiry of the term of office.

(2) Each registrant will be entitled to one ballot and may vote in favour of 1 candidate for each vacant position to be elected on such ballot [or for each vacant position in his or her electoral district].

(3) The registrar must not count a ballot unless it is received by the registrar at least [30] days prior to the expiry of the term of office and is contained in an envelope on which the registrant's name and signature appears.

(4) The person or persons receiving the most votes on the return of the ballots is elected.

(5) In the case of a tie vote, the registrar must select the successful candidate by random draw.

(6) The registrar must supervise and administer all board elections and may establish procedures, consistent with these bylaws, for that purpose.

(7) The registrar may determine any dispute or irregularity with respect to any nomination, ballot or election.

(8) Where the number of persons nominated under section 5(2) is less than or equal to the number of positions at the close of nominations, the nominees are elected by acclamation.

Terms of office

7. (1) The term of office for an elected board member is [2] years.

(2) An elected board member may serve a maximum of [3] consecutive terms.

(3) An elected board member may resign at any time by delivering a notice in writing to the registrar and the resignation is effective upon receipt by the registrar.

Removal of elected board member

8. An elected board member may be removed by a special resolution of the board or the registrants at a general meeting in accordance with the provisions of section 37.

First election and terms of office

8.1. (1) The first election of elected board members will be held during [month, year] and the successful candidates will assume their positions effective [month, day, year].

(2) Despite section 6, the first term of office of the first elected board members is

(a) 1 year for [2] designated positions,

(a) 2 years for [2] designated positions, and

(a) 3 years for [2] designated positions.

(3) This section is repealed [4] years after the coming into force of this section.

This provision regarding the terms of office is optional but is recommended to promote continuity in board operations by ensuring that there is minimal turnover in board membership at any one time.

Vacancy (Option 1)

9. Any vacancy of an elected board position may be filled by a registrant selected by the board [from the same electoral district as the outgoing board member] for the remainder of the term for that position by special resolution of the board.

Vacancy (Option 2)

9. (1) Any vacant position of an elected board member may be filled by a registrant [from the same electoral district as the outgoing board member] for the period of time until the next scheduled board election by special resolution.

(2) An election must be held at the next scheduled board election to fill any vacant position of an elected board member for the remainder of the outgoing member's term where the time remaining is greater than [3] months.

Note that there is a carry-over provision in the Act which permits a person who resigns or whose appointment term has ended to continue to serve until a successor has been appointed [s. 17(5)(a)].

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Note that there is a carry-over provision in the Act which permits a person who resigns or whose appointment term has ended to continue to serve until a successor has been appointed [s. 17(5)(a)].

Remuneration of board members

10. (1) A board member is entitled to be

(a) paid an honorarium of $[200] per day spent on business of the college, and

(b) reimbursed by the college for reasonable expenses necessarily incurred in connection with the business of the college.

(2) A board member who spends less than [4] hours on business of the college is entitled to be paid an honorarium for the time spent at an hourly rate proportional to the per diem rate.

Privileges and responsibilities of persons who serve on the board, including remuneration and opportunities to participate in various capacities, must be the same for all members regardless of whether they are elected or appointed board members. The board should develop policies regarding the remuneration and payment of the expenses of board members.

Chair and vice-chair

11. (1) The members of the board must elect a chair and a vice-chair by a majority vote for a [1] year term.

(2) The chair must

(a) preside at all meetings of the college and board and is an ex officio member of all committees,

(b) sign all certificates, diplomas and other instruments executed on behalf of the college as required,

(c) sign the minutes of each meeting after they are approved by the board, and

(d) act generally in accordance with the requirements of his or her office for the proper carrying out of the duties of the board.

(3) The vice-chair will perform the duties of the chair in the absence of the chair.

(4) In the absence of both the chair and the vice-chair, an acting chair for a board meeting must be elected by a majority vote of the board members present.

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(4) In the absence of both the chair and the vice-chair, an acting chair for a board meeting must be elected by a majority vote of the board members present.

Board meetings

12. (1) The board must meet at least [4] times in each fiscal year and must provide reasonable notice of board meetings to registrants.

(2) Meetings of the board must be called by the registrar at the request of either the chair or any [3] board members.

(3) The registrar must provide the following to members of the public on request:

(a) details of the time and place of a board meeting,

(b) a copy of the agenda, and

(c) a copy of the minutes of any preceding meeting.

(4) Subject to subsection (5), meetings of the board must be open to registrants and to the public.

(5) The board may exclude any person from any part of a meeting if it is satisfied that

(a) financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public,

(b) a person involved in a criminal proceeding or civil suit or proceeding may be prejudiced,

(c) personnel matters or property acquisitions will be discussed,

(d) the contents of examinations will be discussed,

(e) communications with the Office of the Ombudsman will be discussed, or

(f) instructions will be given to or opinions received from legal counsel for the college, the board, or committees.

(6) If the board excludes any person from a part of a meeting, it must have its reasons for doing so noted in the minutes of the meeting.

(7) The registrar must ensure that minutes are taken at each meeting and retained on file.

(8) A majority of the board constitutes a quorum.

(9) No resolution proposed at a meeting need be seconded and the chair of a meeting may move or propose a resolution.

(10) In case of an equality of votes the chair shall not have a casting or second vote in addition to the vote to which he or she is entitled as a board member and the proposed resolution shall not pass.

(11) The board may meet and conduct business using video-conference or tele-conference connections when some or all board members are unable to meet in person.

(12) Except as otherwise provided in the *Act*, the regulations, or these bylaws, the most recent edition of *Robert's Rules of Order* governs the procedures at meetings of the board.

Extraordinary board meetings

13. (1) A written resolution signed by all board members is valid and binding and of the same effect as if such resolution had been duly passed at a meeting of the board.

(2) Despite section 12(1), the registrar or the chair may call a meeting of the board without providing notice to the registrants where necessary to conduct urgent business.

Registration committee

14. (1) The registration committee is established consisting of [6] persons appointed by the board.

(2) The registration committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

There must be a ratio of at least ⅓ public representatives on all major committees, including the registration committee, the inquiry committee, the discipline committee, the executive committee, the quality assurance committee and the patient relations committee. Public representatives may be either appointed board members or other public representatives, although there should be at least 1 appointed board member on each of these major committees. All other committees must include at least 1 public representative.

Inquiry committee

15. (1) The inquiry committee is established consisting of [6] persons appointed by the board.

(2) The inquiry committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

Discipline committee

16. (1) The discipline committee is established consisting of [6] persons appointed by the board.

(2) The discipline committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

The duties of the registration committee, the inquiry committee and the discipline committee are set out in Part 5 of these bylaws and Parts 2 & 3 of the Health Professions Act.

Quality assurance committee

17. (1) The quality assurance committee is established consisting of [6] persons appointed by the board.

(2) The quality assurance committee must include at least [2] public representatives, at least one of whom must be an appointed board member.

(3) The quality assurance committee is responsible for

(a) reviewing the standards of practice to enhance the quality of practice and to reduce incompetent, impaired or unethical practice among registrants,

(b) establishing and maintaining a continuing competency program to promote high standards of practice among registrants, and

(c) recommending courses to the board for approval under section 57.

Patient relations committee

18. (1) The patient relations committee is established consisting of [6] persons appointed by the board.

(7) The registrar must ensure that minutes are taken at each meeting and retained on file.

(8) A majority of the board constitutes a quorum.

(9) No resolution proposed at a meeting need be seconded and the chair of a meeting may move or propose a resolution.

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(2) The patient relations committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

(3) The patient relations committee must

(a) establish and maintain procedures by which the college deals with complaints of professional misconduct of a sexual nature,

(b) monitor and periodically evaluate the operation of procedures established under paragraph (a),

(c) develop and coordinate, for the college, educational programs on professional misconduct of a sexual nature for members and the public as required,

(d) establish a patient relations program to prevent professional misconduct, including professional misconduct of a sexual nature,

(e) develop guidelines for the conduct of registrants with their patients, and

(f) provide information to the public regarding the college's complaint and disciplinary process.

(4) For the purposes of this section, "professional misconduct of a sexual nature" means

(a) sexual intercourse or other forms of physical sexual relations between the registrant and the patient,

(b) touching, of a sexual nature, of the patient by the registrant, or

(c) behaviour or remarks of a sexual nature by the registrant towards the patient;

but does not include touching, behaviour and remarks by the registrant towards the patient that are of a clinical nature appropriate to the service being provided.

The report of the Committee on Physician Sexual Misconduct entitled Crossing the Boundaries may assist the patient relations committee in developing guidelines for the conduct of registrants towards their patients. This report is now out of print. However, copies of this report may be located at most public and hospital libraries as well as the medical library of the College of Physicians and Surgeons of British Columbia at:

1383 West 8th Avenue
Vancouver BC V6H 4C4
tel: 733-6671 fax: 737-8582

Executive Committee

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Executive Committee

19. (1) The executive committee is established consisting of [3] board members appointed by the board, at least [1] of whom must be appointed board members.

(2) The executive committee may act on any matter related to the ongoing administration of the college and may exercise all the powers of the board except when the board is in session.

(3) Acts of the executive committee, if within the scope of its authority, are effective as the acts of the board until varied or rescinded by the board.

(4) The executive committee must take minutes of its proceedings and submit them to the board at the next board meeting.

Finance and administration committee

20. (1) The finance and administration committee is established consisting of at least [3] board members appointed by the board and must include at least 1 appointed board member.

(2) The finance and administration committee is responsible for

(a) managing the college's system of financial administration, including

(i) accounting practices and systems, including classification of accounts, internal control and auditing systems,

(ii) financial planning,

(iii) budgetary control,

(iv) ensuring the safekeeping of college assets, including assets held in trust,

(v) managing college revenues, including receipt, recording and control of funds and deposit to accounts maintained by the board,

(vi) producing financial reports for the use of the board, and submitting a financial statement to the auditor immediately after the close of each fiscal year,

(b) advising the board on the needs of the college in regard to financial administration, and the financial implications of board decisions,

(c) advising the board on the application of legislative, regulatory and other financial requirements to the college,

(d) developing, establishing and administering, for the approval of the board, financial policies, systems and procedures essential to the financial administration of the college, and

(e) overseeing the organization, staffing and training of financial staff of the college.

The Health Professions Act does not require college boards to establish an executive committee or a finance and administration committee; these sections are optional and are only included in the model for the convenience of those college boards wishing to structure their administration along these lines. Where a college board does not establish a finance and administration committee, the board may wish to add a provision to Part II stating that the registrar or the board is responsible for the duties set out in 20 (2) above. Additional special committees may also be established and their duties, functions and composition should be set out here.

Committees

21. (1) A person appointed to a committee established under these bylaws

(a) must serve a term determined by the board not exceeding [2] years, and

(b) is eligible for reappointment but may not serve more than [3] consecutive terms.

(2) A committee member may be removed by a majority vote of the board.

(3) The board must designate a committee chair and a committee vice-chair from among the members of the committee.

(4) Each committee must annually submit a report of its activities to the board.

(5) The registrar is an ex officio member of every committee.

Committee panels

22. (1) The discipline committee, the inquiry committee, the registration committee and

[the patient relations committee] may meet in panels of 3 persons which must include at least 1 board member and 1 public representative.

(2) The chair of a committee referred to in subsection (1) must appoint the members of a panel and must designate a chair of the panel.

(3) A panel of a committee referred to in subsection (1) may exercise any power, duty, or function of that committee.

Meetings of a committee or panel

23. (1) A majority of a committee or panel constitutes a quorum.

(2) All members of a panel constitute a quorum.

(3) The provisions of section 12(2) to (6) and (8) to (12) apply to a committee or a panel as if it were the board.

Remuneration of committee members

24. (1) A committee member is entitled to be

(a) paid an honorarium of $[200] per day spent on business of the college, and

(b) reimbursed by the college for reasonable expenses necessarily incurred in connection with business of the college.

(2) Where a committee member spends less than [4] hours on business of the college, he or she may be paid for the hours spent at an hourly rate proportional to the per diem rate.

The board should develop policies for the remuneration and expenses of committee members.

(c) advising the board on the application of legislative, regulatory and other financial requirements to the college,

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PART 2 COLLEGE ADMINISTRATION

Part 2 provides for the general operation and administration of the college. The duties of the auditor, the duties of the deputy registrar, if any, and the fiscal responsibilities of the board are set out. Provision is made for a college seal, for the board to obtain legal advice and for the conduct of general meetings of registrants. The authority for these provisions is found in section 19 (1) (c), (h), (p), (q), (r), (v), (w) and (z) of the Health Professions Act. Another source of precedent provisions in addition to these Model Bylaws is the Society Act of British Columbia.

Seal

25. (1) A seal for the college must be approved by the board.

(2) The seal of the college must be affixed, by those persons designated by the board, to certificates of registration and such other documents as the board may direct by resolution.

Deputy registrar

26. (1) The board may appoint a person to act as deputy registrar.

(2) The deputy registrar

(a) must perform any duties assigned by the registrar, and

(b) in the event of the registrar's absence or inability to act for any reason, may exercise the powers and perform the duties of the registrar.

(3) The deputy registrar has the same authority as the registrar when he or she is acting on behalf of the registrar.

The registrar is appointed under s. 21 of the Health Professions Act and is responsible for maintaining the register, receiving complaints, referring complaints to the inquiry committee with recommendations and initiating disciplinary hearings upon the direction of the board or the inquiry committee (ss. 21, 32 and 37). The registrar is an inspector under the Act (s. 26) and is an ex-officio member of every committee under s. 21 of these bylaws.

Fiscal year

27. The fiscal year of the college commences on [April 1] and ends on [March 31] of the following year.

Banking

28. The board must establish and maintain such accounts with a chartered bank, trust company or credit union as the board determines necessary from time to time.

Payments and commitments

29. (1) The registrar [or finance and administration committee] may approve payments and commitments for the purchase of goods and services up to $[1,000].

(2) Subject to subsection (2), all payments and commitments by the college in excess of $[1,000] must be approved by the registrar and 1 board member designated by the board.

(3) The board must not purchase personal or real property or enter contracts for services in excess of $[100,000] without a special resolution approved by the registrants of the college at a general meeting.

Borrowing powers

30. (1) The board may raise funds or borrow money in the name of the college, in any manner determined by the board, in order to carry out the purposes of the college.

(2) The board must not enter into any security obligation in excess of $[50,000] without a special resolution approved by the registrants of the college at a general meeting.

(3) The registrants may, by special resolution at a general meeting, restrict the borrowing powers of the board.

Investments

31. The board may invest funds of the college in any investments authorized under section 15 of the *Trustee Act* in the name of the college and may change those investments.

The board should consider establishing policies and procedures recommended by the finance and administration committee for the expenditure of funds, receipt of revenues and control of assets.

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The board should consider establishing policies and procedures recommended by the finance and administration committee for the expenditure of funds, receipt of revenues and control of assets.

Auditor

32. (1) The board must appoint a chartered accountant or a certified general accountant to be the auditor.

(2) The registrar must submit the financial statement to the auditor within [30] days of the end of the fiscal year.

(3) A copy of the auditor's report must be included in the annual report.

Legal counsel

33. The board or, with the approval of the board, a committee or panel, may retain legal counsel for the purpose of assisting the board, committee or panel in carrying out any power or duty under the *Act*, the regulations or these bylaws.

General meetings

34. (1) A general meeting of the registrants must be held in British Columbia at a time and place determined by the board.

(2) The first annual general meeting of the registrants must be held not more than [15] months after the date the bylaws are approved by the Lieutenant Governor in Council and after that an annual general meeting must be held at least once in every calendar year and not more than [15] months after the holding of the last preceding annual general meeting.

(3) The following matters must be considered at an annual general meeting

(a) financial statements,

(b) the report of the board, and

(c) the report of the auditor, if any.

(4) Every general meeting, other than an annual general meeting, is an extraordinary general meeting.

(5) The board

(a) may convene an extraordinary general meeting by resolution of the board, and

(b) must convene an extraordinary general meeting within [60] days after receipt by the registrar of a request for such a meeting signed by at least [10] percent of all registrants.

Notice of general meetings

35. (1) The board must deliver notice of an annual or extraordinary general meeting to every registrant at least [45] days prior to the meeting.

(2) Notice of a general meeting must include

(a) the place, day and time of the meeting,

(b) the general nature of the business to be considered at the meeting,

(c) any resolutions proposed by the board, and

(d) any resolutions proposed by the registrants under section 36 and delivered to the registrar prior to the mailing of the notice.

(3) The accidental omission to deliver notice of a meeting to, or the non-receipt of a notice by, any registrant or board member entitled to receive notice does not invalidate proceedings at that meeting.

Resolutions proposed by registrants

36. (1) Any [10] registrants may deliver a written notice to the registrar at least [30] days prior to the date of an annual or extraordinary general meeting requesting the introduction of a resolution.

(2) On receipt of a notice specified in subsection (1) and at least [14] days prior to the date of that meeting, the registrar must deliver a notice and a copy of the resolution to each registrant.

(3) A registrant may propose a resolution at a general meeting from the floor and any such resolution will be noted by the chair of the meeting and placed at the end of the agenda to be debated if time permits.

Proceedings at general meetings

37. (1) A quorum is [45] registrants. -- OR -- A quorum is [10] percent of total registrants.

(2) No business, other than the adjournment or termination of the meeting, may be conducted at a general meeting at a time when a quorum is not present.

(3) If at any time during a general meeting there ceases to be a quorum present, business then in progress shall be suspended until there is a quorum present.

(4) If within [30] minutes from the time appointed for the commencement of a general meeting or from any time during a general meeting when a quorum is not present, the meeting must be adjourned.

(5) In the absence of both the chair and the vice-chair of the board, an acting chair for a meeting must be elected by a majority vote of the registrants present.

(6) A general meeting may be adjourned from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(7) When a meeting is adjourned in accordance with subsection (4) or by motion, notice of the rescheduled meeting must be delivered as in the case of the original meeting.

(8) No motion proposed at a meeting need be seconded and the chair of a meeting may propose a motion.

(9) A registrant present at a meeting is entitled to one vote and the chair of the meeting, where the chair is a registrant, is entitled to one vote.

(10) Voting must be conducted by ballot.

(11) In case of a tie vote, the proposed resolution must not pass.

(12) Except as these bylaws otherwise provide, the most recent edition of *Robert's Rules of Order* governs the procedures at an annual or extraordinary general meeting.

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IMPORTANT NOTE CONCERNING THE FOLLOWING PAGES

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Email: info@micromedia.on.ca

Voting by proxy

38. (1) Every registrant entitled to vote at a general meeting may, by proxy, appoint in writing another registrant as his or her proxy holder to attend and act at the general meeting in the manner, to the extent and with the power conferred by the proxy.

(2) Every proxyholder has the same rights as the registrant who appointed him or her to speak at the meeting.

(3) Every proxy ceases to be valid following the general meeting specified in the proxy.

(4) Every proxy must contain

(a) the date it is executed, and

(b) the name of the proxyholder.

(5) Every proxy may be revoked by the registrant in writing.

The procedures relating to general meetings must be fair, must provide for reasonable notice, and must allow for adequate representation and participation by registrants. General meetings must be open to the public to meet the principles of openness and accountability to the public.

Notice to public representatives

39. Every notice or mailing provided to the general membership of the college must also be provided to a public representative serving on the board or a committee.

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PART 3 COLLEGE RECORDS

Part 3 provides for those matters relating to college records which are not already covered by the Freedom of Information and Protection of Privacy Act (FOIPPA). This Act has detailed provisions which address many aspects of the right of access to records kept by public bodies (which include professional colleges) as well as restrictions on the collection, use and disclosure of personal information. It is important to avoid overlap and duplication between the two enactments as this may pose unnecessary difficulties in interpreting these provisions in the future.

The bylaws should designate a person or committee as the "head" of the college for administering the FOIPPA and should establish the service fees that may be charged for an information request. The bylaws should also make the board accountable for the protection of personal information (in addition to the "head" of the college) and should list approved methods of disposal of college records containing personal information.

Note that the management of registrant records and personal information is covered in Part 6 of these bylaws. The reason for treating registrant records separately is that colleges are subject to the FOIPPA whereas registrants are not.

Note that the terms "public body" and "local public body" are used throughout the FOIPPA and both terms are defined to include a self-governing professional college.

Body responsible for administering the *Freedom of Information and Protection of Privacy Act*

40. (1) The [registrar OR _____ committee] is the "head" of the college for the purposes of the *Freedom of Information and Protection of Privacy Act.*

(2) The [registrar OR _____ committee] may authorize a deputy registrar, a person employed by the college or a person who has contracted to perform services for the college to perform any duty or exercise any function of the [registrar OR _____ committee] that arises under the *Freedom of Information and Protection of Privacy Act.*

(3) The board is responsible for ensuring that the [registrar OR _____ committee] fulfils its duties under the *Freedom of Information and Protection of Privacy Act.*

(4) The [registrar OR _____ committee] must report [quarterly] to the board regarding the steps it has taken to fulfil its duties under the *Freedom of Information and Protection of Privacy Act.*

The college board must designate a person or committee as the "head" of the college for the purposes of administering the FOIPPA (s. 77(a), FOIPPA). The registrar may be an appropriate person to exercise this function. Some of the duties of the "head" include handling requests for access to information (Part 2, FOIPPA) and ensuring that there is no unauthorized access, collection, use, disclosure or disposal of personal information by college members or staff (s. 30, FOIPPA). For a more detailed list of duties and functions please refer to the summary of key provisions of the FOIPPA provided at page ix of the Guidelines.

Fees for information requests

41. Subject to section 75 of the *Freedom of Information and Protection of Privacy Act*, an applicant who requests access to a college record under section 5 of the *Freedom of Information and Protection of Privacy Act* must pay the fees set out in Schedule "D" for services required to comply with the information request.

Although the "head" of the college may charge fees for services required to comply with the information request, fees may not be charged where the request is for the applicant's own personal information or for the first three hours spent locating and retrieving a record (s. 75). The board may establish its own fees or may choose to adopt by reference the "Maximum Schedule of Fees" established in the Freedom of Information and Protection of Privacy Regulation, B.C. Reg. 323/93. Schedule "D" reflects the fees which are currently specified under this regulation.

Protection of personal information

42. (1) The board must take all reasonable measures to ensure that the collection, use, and disclosure of personal information occurs in accordance with the *Freedom of Information and Protection of Privacy Act.*

(2) The board must take reasonable measures to ensure that, where personal information is sent to any person or service organization for processing, storage or destruction, a contract is made with that person or organization which includes an undertaking by the person or organization that confidentiality will be maintained.

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The board should establish a written policy which details methods of safe storage for physical records and records stored by electronic methods and should ensure that all college staff are familiar with this policy. Chapter 8 of the "Review of the Storage and Disposal of Health Care Records", Report of Dr. Shaun Peck, Deputy Provincial Health Officer, to the Minister of Health and Minister Responsible for Seniors, Province of British Columbia, July, 1995, may serve as a useful precedent and is attached at page xi of the Guidelines.

Disclosure of annual report

43. The college must deliver a copy of the annual report to every registrant and to a person on request.

Disclosure of registration status

44. (1) Where an inquiry about the registration status of a person is received by the board or the registrar, the registrar must disclose

(a) whether or not the person is a registrant or a former registrant,

(b) whether or not the discipline committee has ever issued an order relating to the person under section 39 of the *Act* and the details of the order,

(c) whether or not the person has ever signed a consent order under section 36 of the *Act*, and

(d) the details of a consent order pertaining to a change in the person's registration status or a restriction on the practice of the profession of the registrant.

(2) Except with the consent of the person affected, the registrar must not release the names of complainants, patients, or their families or information which might otherwise enable a person inquiring about the status of a registrant to establish the identity of complainants, patients or their families.

Manner of disposal of college records containing personal information

45. The board must ensure that a college record containing personal information is disposed of only by

(a) effectively destroying a physical record by utilizing a shredder or by complete burning,

(b) erasing information recorded or stored by electronic methods on tapes, disks or cassettes in a manner that ensures that the information cannot be reconstructed,

(c) returning the record to the person the information pertains to, or

(d) returning the record to the registrant who compiled the information.

Note that information used to make a decision that directly affects an individual must be retained for at least one year so that the individual has a reasonable opportunity to obtain access to the information (s. 31, FOIPPA).

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PART 4 REGISTRATION

Part 4 provides for the registration of college members and establishes several categories of registration including full registration, student registration and non-practising registration. A college may also wish to have categories of grandparented registration, limited registration, temporary registration and honorary registration. This part of the bylaws should establish the minimum criteria for acceptance into each class of registrants, including any examinations set by the registration committee. This part should also establish fees for examinations, for initial applications, and for renewal of registration. The authority for these provisions is found in ss. 19 (1),(i),(j),(p),(q),(r) and s. 19(2) of the Health Professions Act.

The entry level requirements should reflect the minimum knowledge skills and abilities required to provide the professional services in a competent manner. They should be introduced where they significantly reduce the likelihood of harm to the public. At the same time, entry level requirements should not contain superfluous or irrelevant criteria which may reduce the number of practitioners who can meet the requirements as this may increase the cost of providing the service to the public without any commensurate benefit. Entry level requirements should be set after appropriate consultation with practitioners, public representatives, consumer groups and educational institutions.

Classes of registrants

46. The following classes of registrants are established:

(a) full registration,

(b) [grandparented registration],

(c) [limited registration],

(d) student registration,

(e) non-practising registration

(f) [temporary registration], and

(g) [honorary registration].

Full registration

47. (1) For the purposes of section 20(2) of the *Act*, the requirements for full registration are

PART 4 REGISTRATION

Part 4 provides for the registration of college members and establishes several categories of registration including full registration, student registration and non-practising registration. A college may also wish to have categories of grandparented registration, limited registration, temporary registration and honorary registration. This part of the bylaws should establish the minimum criteria for acceptance into each class of registrants, including any examinations set by the registration committee. This part should also establish fees for examinations, for initial applications, and for renewal of registration. The authority for these provisions is found in ss. 19 (1),(i),(j),(p),(q),(r) and s. 19(2) of the Health Professions Act.

The entry level requirements should reflect the minimum knowledge skills and abilities required to provide the professional services in a competent manner. They should be introduced where they significantly reduce the likelihood of harm to the public. At the same time, entry level requirements should not contain superfluous or irrelevant criteria which may reduce the number of practitioners who can meet the requirements as this may increase the cost of providing the service to the public without any commensurate benefit. Entry level requirements should be set after appropriate consultation with practitioners, public representatives, consumer groups and educational institutions.

Classes of registrants

46. The following classes of registrants are established:

(a) full registration,

(b) [grandparented registration],

(c) [limited registration],

(d) student registration,

(e) non-practising registration

(f) [temporary registration], and

(g) [honorary registration].

Full registration

47. (1) For the purposes of section 20(2) of the *Act,* the requirements for full registration are

(a) graduation from a(n) [academic, technical, or vocational training program listed in Schedule "E"],

(b) [successful completion of the examinations required by the registration committee],

(c) [list experience requirements or period of supervised practice, if any],

(d) evidence satisfactory to the registration committee of the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and

(e) receipt by the registrar of

(i) a signed application for full registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

(iv) a statutory declaration in Form 1,

(v) [the fee for the examination], and

(vi) a signed criminal record check authorization form.

(2) An applicant who does not meet the requirements established in subsection (1) may be granted full registration by the registration committee where the applicant

(a) has a combination of knowledge, skills and abilities which are, in the opinion of the registration committee, substantially equivalent to the requirements established in subsections (1)(a) and (c),

(b) [has successfully completed the examinations and any upgrading programs required by the registration committee], and

(c) meets the requirements set out in subsections (1)(d) and (e).

Section 19 of the Health Professions Act provides the registration committee with the authority to grant registration according to the bylaws. Colleges must require applicants for all classes of registration to deliver a signed criminal record check authorization form to ensure compliance with the Criminal Records Review Act. This Act comes into force for some professions on October 1, 1996, and for others on April 1, 1997. A copy of the Implementation Guide may be obtained from:

Criminal Records Review Agency
Security Programs Division
Ministry of Attorney General
PO Box 9217 Station Provincial Government
Victoria BC V8W 9J1
tel: 356-5486 fax: 387-5687

Grandparented registration

48. (1) An applicant who does not meet the requirements established in section 47 may be granted grandparented registration by the registration committee where the applicant

(a) has been practising in British Columbia, in a capacity substantially equivalent to a registrant, [at any time during the 2 years] before the effective date of this section,

(b) has never been qualified, and does not at the time of application, qualify under section 47,

(c) has successfully completed the examinations required by the board,

(d) satisfies the registration committee concerning the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and

(e) has delivered to the registrar

(i) a signed application for grandparented registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

(iv) a statutory declaration in Form 1,

(v) [the fee for the examination], and

(vi) a signed criminal record check authorization form.

(2) No person shall apply for registration under this section [2] years after it comes into force.

A grandparenting provision may be employed by a college which has been recently designated as a self-regulating profession. The purpose of a grandparenting provision is to provide an initial route of entry into the category of full registration for persons who are currently practising in a capacity substantially equivalent to a registrant. While these applicants do not have the formal qualifications required for full registration under section 47, they have an equivalent combination of knowledge and experience. The ability to apply under this section is generally limited in time to the first few years after the college is established.

Limited registration

49. (1) An applicant who does not meet the requirements established in section 47 may be granted limited registration by the registration committee for a period of up to [1] year where the applicant

(a) [may, in the opinion of the registration committee, be reasonably expected to satisfy the educational requirements established in section 47(1)(a) by completing upgrading courses or may, in the opinion of the registration committee, be reasonably expected to satisfy the experience requirements set out in section 47(1)(c) by completing a period of supervised practice],

(b) may, in the opinion of the registration committee, practice as a limited registrant without any risk to public health and safety, and

(c) has delivered to the registrar

(i) a signed application for limited registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

Section 19 of the Health Professions Act provides the registration committee with the authority to grant registration according to the bylaws. Colleges must require applicants for all classes of registration to deliver a signed criminal record check authorization form to ensure compliance with the Criminal Records Review Act. This Act comes into force for some professions on October 1, 1996, and for others on April 1, 1997. A copy of the Implementation Guide may be obtained from:

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(a) has been practising in British Columbia, in a capacity substantially equivalent to a registrant, [at any time during the 2 years] before the effective date of this section,

(b) has never been qualified, and does not at the time of application, qualify under section 47,

(c) has successfully completed the examinations required by the board,

(d) satisfies the registration committee concerning the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and

(e) has delivered to the registrar

(i) a signed application for grandparented registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

(iv) a statutory declaration in Form 1,

(v) [the fee for the examination], and

(vi) a signed criminal record check authorization form.

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49. (1) An applicant who does not meet the requirements established in section 47 may be granted limited registration by the registration committee for a period of up to [1] year where the applicant

(a) [may, in the opinion of the registration committee, be reasonably expected to satisfy the educational requirements established in section 47(1)(a) by completing upgrading courses or may, in the opinion of the registration committee, be reasonably expected to satisfy the experience requirements set out in section 47(1)(c) by completing a period of supervised practice],

(b) may, in the opinion of the registration committee, practice as a limited registrant without any risk to public health and safety, and

(c) has delivered to the registrar

(i) a signed application for limited registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

(iv) a statutory declaration in Form 1,

(v) [the fee for the examination], and

(vi) a signed criminal record check authorization form.

(2) The registration of a person who has been granted limited registration under subsection (1) may be renewed by the registration committee once for a period of up to [1] year.

(3) Full registration may be granted by the registration committee to a person who has been granted limited registration under subsection (1) and who

(a) completes the required [upgrading courses or period of supervised practice], and

(b) meets the requirements of section 47.

(4) A person who has been granted limited registration under subsection (1) may only perform the following services of a full registrant [under the general supervision of a practitioner and upon any limits or conditions set by the registration committee]

(a) [specify those limits or conditions pertaining to this class of registrants and those services that may be performed by this class of registrants].

A college may establish a category of limited registration to provide the opportunity for a qualified professional from another country or jurisdiction to continue to practise in a limited capacity while obtaining the necessary upgrading courses or language training required to become a full registrant. Note that the Act permits the board to establish, by bylaw, standards, limits or conditions on the practice of the profession by registrants [s.19(1)(k)]. The Act does not provide the authority for the board or for a committee to impose limits or conditions on individual registrants on a case by case basis. Note that a former registrant or non-practising registrant who has been out of practice for over [3] years may also be granted limited registration under section 49.

Student registration

50. (1) An applicant may be granted student registration by the registration committee where the applicant

(a) is enrolled, or was enrolled during the [6] months previous to making an application under paragraph (b), as a student in a training program approved by the board,

(iv) a statutory declaration in Form 1,

(v) [the fee for the examination], and

(vi) a signed criminal record check authorization form.

(2) The registration of a person who has been granted limited registration under subsection (1) may be renewed by the registration committee once for a period of up to [1] year.

(3) Full registration may be granted by the registration committee to a person who has been granted limited registration under subsection (1) and who

(a) completes the required [upgrading courses or period of supervised practice], and

(b) meets the requirements of section 47.

(4) A person who has been granted limited registration under subsection (1) may only perform the following services of a full registrant [under the general supervision of a practitioner and upon any limits or conditions set by the registration committee]

(a) [specify those limits or conditions pertaining to this class of registrants and those services that may be performed by this class of registrants].

A college may establish a category of limited registration to provide the opportunity for a qualified professional from another country or jurisdiction to continue to practise in a limited capacity while obtaining the necessary upgrading courses or language training required to become a full registrant. Note that the Act permits the board to establish, by bylaw, standards, limits or conditions on the practice of the profession by registrants [s.19(1)(k)]. The Act does not provide the authority for the board or for a committee to impose limits or conditions on individual registrants on a case by case basis. Note that a former registrant or non-practising registrant who has been out of practice for over [3] years may also be granted limited registration under section 49.

Student registration

50. (1) An applicant may be granted student registration by the registration committee where the applicant

(a) is enrolled, or was enrolled during the [6] months previous to making an application under paragraph (b), as a student in a training program approved by the board,

(b) satisfies the board concerning the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and

(c) has delivered to the registrar

(i) a signed application for registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized statement, or other evidence satisfactory to the registration committee, of his or her name, date of birth and educational standing,

(iv) a statutory declaration in Form 1, and

(v) a signed criminal record check authorization form.

(2) A person to whom subsection (1) applies must be registered under this section before undertaking a period of practical training involving direct patient care.

(3) A student registrant may only provide the following services under the general supervision of a full registrant

(a) [specify those services that may be performed].

(4) A student registrant may provide the following services under the direct supervision of a full registrant

(a) [specify those services that may be performed].

(5) A student registrant may not provide the following services

(a) [specify those services that may not be performed].

Non-practising registration

51. (1) A full or grandparented registrant may be granted non-practising registration by the registration committee where the registrant has delivered to the registrar

(a) a signed application for non-practising registration in a form approved by the registration committee

(b) the application fee specified in Schedule "F", and

(c) a statutory declaration that he or she will not provide the services of [ ] while registered under this section.

(2) A non-practising registrant may not provide the services of the profession of [ ] specified in the regulation.

Temporary registration

52. (1) An applicant may be granted temporary registration by the registration committee for a period of up to [90] days where the applicant

(a) is a registrant in good standing of a regulatory body governing the practice of [ ] in a jurisdiction approved by the board, and

(b) has delivered to the registrar

(i) a signed application for temporary registration in a form approved by the registration committee,

(ii) the application fee specified in Schedule "F",

(iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her registration status in a regulatory body specified in paragraph (a) and evidence satisfactory to the registration committee that he or she is the person named therein,

(iv) a statutory declaration in Form 1, and

(v) a signed criminal record check authorization form.

(2) The registration of a person who has been granted temporary registration under subsection (1) may be renewed by the registration committee once for an additional period of up to [90] days.

(3) A person who has been granted temporary registration under subsection (1) may perform the following services of a full registrant

(a) [specify those services that may be performed by this class of registrants].

(4) A temporary registrant must not

(a) serve on the board or on any of its committees,

(b) vote in an election of board members, or

(c) vote at a general meeting of registrants.

A college may wish to establish a category of temporary registration to provide the opportunity for a qualified professional from another country or jurisdiction who is in British Columbia on a temporary basis to continue to practise (perhaps in a limited capacity) during that period of time. This category of registration may be created to accommodate visiting professionals who are in the province for the purposes of taking or teaching a course, travelling with an athlete or participating in an exchange program.

Honorary registration

53. (1) The board may award honorary registration to any person other than a registrant who has made a substantial contribution to the profession of [ ].

(2) An honorary registrant may not provide the services of the profession of [ ] specified in the regulation.

Certificate of registration

54. (1) The registrar must issue a certificate in Form 2 to any person who is granted full, grandparented, limited, student, non-practising or temporary registration and the certificate must specify the limits or conditions that apply to that category of registrants.

(2) A certificate of full, grandparented, or non-practising registration or any renewal of such certificate, is valid until not later than the following [March 31].

(3) A certificate of limited or temporary registration is valid until the date shown on the certificate.

(4) A certificate of student registration, or any renewal of a certificate of student registration, is valid until the earlier of

(a) the following [March 31], or

(b) [6 months] after the date the registrant graduates or is last enrolled as a student in a training program approved by the board.

(a) serve on the board or on any of its committees,

(b) vote in an election of board members, or

(c) vote at a general meeting of registrants.

A college may wish to establish a category of temporary registration to provide the opportunity for a qualified professional from another country or jurisdiction who is in British Columbia on a temporary basis to continue to practise (perhaps in a limited capacity) during that period of time. This category of registration may be created to accommodate visiting professionals who are in the province for the purposes of taking or teaching a course, travelling with an athlete or participating in an exchange program.

Honorary registration

53. (1) The board may award honorary registration to any person other than a registrant who has made a substantial contribution to the profession of [ ].

(2) An honorary registrant may not provide the services of the profession of [ ] specified in the regulation.

Certificate of registration

54. (1) The registrar must issue a certificate in Form 2 to any person who is granted full, grandparented, limited, student, non-practising or temporary registration and the certificate must specify the limits or conditions that apply to that category of registrants.

(2) A certificate of full, grandparented, or non-practising registration or any renewal of such certificate, is valid until not later than the following [March 31].

(3) A certificate of limited or temporary registration is valid until the date shown on the certificate.

(4) A certificate of student registration, or any renewal of a certificate of student registration, is valid until the earlier of

(a) the following [March 31], or

(b) [6 months] after the date the registrant graduates or is last enrolled as a student in a training program approved by the board.

Examinations

55. (1) All examinations required to be taken under these bylaws must be prepared by or under the direction of the registration committee [and approved by the board].

(2) The registration committee must

(a) determine the time and place for the holding of an examination, designate invigilators and determine the procedures for the conduct of the examinations,

(b) review the results of the examination or re-examination for each applicant and make a determination as to that applicant's qualification for registration, and

(c) notify the applicant of the results of the examination or re-examination as soon as is practicable.

(3) An applicant who fails the initial examination is entitled to [2] opportunities to repeat the examination.

(4) Where the invigilator has reason to believe that applicant has engaged in improper conduct during the course of an examination, the invigilator must make a report to the registration committee and may recommend that the registration committee take one or more of the following courses of action

(a) fail the applicant,

(b) pass the applicant,

(c) require the applicant to rewrite the examination, or

(d) disqualify the applicant from participating in any examination for a period of time.

(5) After considering a report made under subsection (4), the registration committee may take one or more of the courses of action specified in subsection (4).

(6) An applicant disqualified under subsection 4(d) must be provided with written reasons for the disqualification.

Registration renewal

56. (1) To be eligible for a renewal of registration, a full, grandparented, limited, student, non-practising or temporary registrant must

(a) apply to the registrar,

(b) pay the registration renewal fee specified in Schedule "F",

(c) pay any other outstanding fee, debt or levy owed to the college,

(d) attest that he or she is in compliance with the *Act*, the regulations, and these bylaws, and is in compliance with any limits or conditions imposed under section 39(1)(c) of the *Act*, and

(e) provide proof of having completed any continuing education courses required under section 57.

(2) Notice of the fees must be delivered to each registrant no later than [February 10] and must describe the consequences of late payment and non-payment of fees.

(3) Each registrant must pay to the college the registration renewal fee on or before [March 31].

(4) The annual registration renewal fee may be paid in advance instalments where approved by the board.

(5) On payment of the registration renewal fee, and any arrears, the registrar must issue to the registrant making payment a receipt bearing the seal of the college and stating that the registrant is, subject to his or her compliance with the *Act*, the regulations, and the bylaws, entitled to practise the profession of [ ] in the Province of British Columbia as a registrant of the college.

(6) Where a registrant fails to pay a registration renewal fee on or before [March 31], he or she ceases to be registered.

Section 21 of the Health Professions Act provides the authority for the registrar to maintain a register and to cancel registration in certain circumstances, including the non-payment of fees.

Registration renewal

56. (1) To be eligible for a renewal of registration, a full, grandparented, limited, student, non-practising or temporary registrant must

(a) apply to the registrar,

(b) pay the registration renewal fee specified in Schedule "F",

(c) pay any other outstanding fee, debt or levy owed to the college,

(d) attest that he or she is in compliance with the *Act*, the regulations, and these bylaws, and is in compliance with any limits or conditions imposed under section 39(1)(c) of the *Act*, and

(e) provide proof of having completed any continuing education courses required under section 57.

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Section 21 of the Health Professions Act provides the authority for the registrar to maintain a register and to cancel registration in certain circumstances, including the non-payment of fees.

Continuing education

57. (1) A registrant must complete [x hours of continuing education per year OR x hours of continuing education within any 24 month period].

(2) The board must approve the continuing education courses required under subsection (1).

Reinstatement

58. (1) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for less than [1] year may be restored to the full register or to the grandparented register by the registration committee where the registrant

(a) [provides proof of any continuing education courses required under section 57], and

(b) has delivered to the registrar

(i) a signed application for reinstatement in a form approved by the registration committee, and

(ii) the [registration renewal fee specified in Schedule "F"].

(2) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for more than [1] year but less than [3] years may be restored to the full register or to the grandparented register by the registration committee where the registrant

(a) [provides proof of any continuing education courses required under section 57]

(b) [successfully completes an examination required by the board], and

(c) has delivered to the registrar

(i) a signed application for reinstatement in a form approved by the registration committee, and

(ii) the [registration renewal fee specified in Schedule "F"].

(3) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for more than [3] years may be granted limited registration by the registration committee where the registrant

(a) [provides proof of any continuing education courses required under section 57],

(b) [successfully completes an examination required by the board],

(c) may, in the opinion of the registration committee, practice as a limited registrant without any risk to public health and safety, and

(d) has delivered to the registrar

(i) a signed application for reinstatement in a form approved by the registration committee, and

(ii) the [registration renewal fee specified in Schedule "F"].

(4) The registration of a person who has been granted limited registration under subsection (3) may be renewed annually by the registration committee.

(5) A person who has been granted limited registration under subsection (3) may only perform the services of a full registrant [under the general supervision of a practitioner and upon the following limits or conditions]

(a) [specify those limits or conditions pertaining to this class of registrants].

(6) A person who has been granted limited registration under subsection (3) and who was formerly a full registrant may be restored or reinstated to the full register upon completion of a [1] year period of supervised practice.

(7) A person who has been granted limited registration under subsection (3) and who was formerly a grandparented registrant may be restored or reinstated to the grandparented register upon completion of a [1] year period of supervised practice.

M121

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Section 58 provides for former registrants or non-practising registrants who have been out of practice for less than [3] years to be restored to their former registration status. Former registrants or non-practising registrants who have been out of practice for longer than [3] years may be granted limited registration under this section. Section 58 does not apply to applicants whose registration has been cancelled for disciplinary reasons. These applicants are eligible to submit a new application for full registration under section 47 and must satisfy the good character requirement set out in that section.

Reinstatement following non-payment of fees

59. (1) A former registrant who ceased to be registered under section 56(6) by reason only of a failure to renew his or her registration is eligible for reinstatement by the board under section 21(4) of the *Act* where the former registrant,

(a) applies for reinstatement in the form required by the registration committee not later than [3] months following the expiry of his or her registration,

(b) is not in contravention of the *Act*, the regulations, or these bylaws,

(c) pays the registration renewal fee, and

(d) pays a reinstatement fee in an amount equal to [35] percent of the registrant's annual registration renewal fee.

(2) Despite subsection (1), the board may reinstate a person without charging any fee where the person is able to demonstrate that he or she was unable to comply with section 56 for reasons of undue hardship.

Note that a former registrant who ceased to be registered by reason only of a failure to renew his or her registration and who does not apply for reinstatement within [3] months following the expiry of his or her registration must apply for reinstatement under section 58.

Notification of change of registration information

60. A registrant must immediately notify the registrar of any change of address, name or any other registration information previously provided to the registrar.

PART 5 INSPECTIONS, INQUIRIES AND DISCIPLINE

Part 5 provides for matters pertaining to inspections, investigations and disciplinary hearings which are not already covered by the Health Professions Act. A brief synopsis of the Act's provisions is provided at page vii of these Guidelines. It is important that the bylaws do not duplicate or paraphrase the provisions of the Act or regulations as any differences in wording may imply that the provisions have different meanings and may raise difficult questions of interpretation. However, this Part of the bylaws should add procedural safeguards to ensure fairness to all parties involved in the disciplinary process. In addition, these bylaws establish the maximum fine that may be ordered by the discipline committee and require the discipline committee to notify the public of any restrictions placed on a registrant's practice. The authority for these provisions is provided in ss. 19 (1) (t) and (u) of the Health Professions Act.

Inspections

61. An inspector must not observe a registrant while the registrant is providing a service to a patient except where

    (a) the consent of the patient being treated has been obtained in advance, or

    (b) the service is being provided in a public setting.

Investigations by inquiry committee

62. (1) The inquiry committee must notify a registrant who is the subject of an investigation and any complainant of the disposition of the investigation and any action taken under section 33(4) of the *Act*.

    (2) Before agreeing to accept an undertaking or consent under section 36 of the *Act*, the inquiry committee may review all previous complaints and disciplinary matters involving the registrant to be satisfied that the proposed undertaking or consent is appropriate in the circumstances.

Consent orders

63. (1) In this section

    "consent order" means the record of an undertaking or a consent given under section 36 of the *Act* for the purposes of resolving a complaint.

    (2) A consent order must

Section 58 provides for former registrants or non-practising registrants who have been out of practice for less than [3] years to be restored to their former registration status. Former registrants or non-practising registrants who have been out of practice for longer than [3] years may be granted limited registration under this section. Section 58 does not apply to applicants whose registration has been cancelled for disciplinary reasons. These applicants are eligible to submit a new application for full registration under section 47 and must satisfy the good character requirement set out in that section.

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(a) applies for reinstatement in the form required by the registration committee not later than [3] months following the expiry of his or her registration,

(b) is not in contravention of the *Act*, the regulations, or these bylaws,

(c) pays the registration renewal fee, and

(d) pays a reinstatement fee in an amount equal to [35] percent of the registrant's annual registration renewal fee.

(2) Despite subsection (1), the board may reinstate a person without charging any fee where the person is able to demonstrate that he or she was unable to comply with section 56 for reasons of undue hardship.

Note that a former registrant who ceased to be registered by reason only of a failure to renew his or her registration and who does not apply for reinstatement within [3] months following the expiry of his or her registration must apply for reinstatement under section 58.

Notification of change of registration information

60. A registrant must immediately notify the registrar of any change of address, name or any other registration information previously provided to the registrar.

PART 5 INSPECTIONS, INQUIRIES AND DISCIPLINE

Part 5 provides for matters pertaining to inspections, investigations and disciplinary hearings which are not already covered by the Health Professions Act. A brief synopsis of the Act's provisions is provided at page vii of these Guidelines. It is important that the bylaws do not duplicate or paraphrase the provisions of the Act or regulations as any differences in wording may imply that the provisions have different meanings and may raise difficult questions of interpretation. However, this Part of the bylaws should add procedural safeguards to ensure fairness to all parties involved in the disciplinary process. In addition, these bylaws establish the maximum fine that may be ordered by the discipline committee and require the discipline committee to notify the public of any restrictions placed on a registrant's practice. The authority for these provisions is provided in ss. 19 (1) (t) and (u) of the Health Professions Act.

Inspections

61. An inspector must not observe a registrant while the registrant is providing a service to a patient except where

    (a) the consent of the patient being treated has been obtained in advance, or

    (b) the service is being provided in a public setting.

Investigations by inquiry committee

62. (1) The inquiry committee must notify a registrant who is the subject of an investigation and any complainant of the disposition of the investigation and any action taken under section 33(4) of the *Act*.

    (2) Before agreeing to accept an undertaking or consent under section 36 of the *Act*, the inquiry committee may review all previous complaints and disciplinary matters involving the registrant to be satisfied that the proposed undertaking or consent is appropriate in the circumstances.

Consent orders

63. (1) In this section

    "consent order" means the record of an undertaking or a consent given under section 36 of the *Act* for the purposes of resolving a complaint.

    (2) A consent order must

(a) include any consent to a reprimand or to any other action made by the registrant under section 36 of the *Act*,

(b) include any undertaking made by the registrant under section 36 of the *Act*,

(c) specify the length of time that an undertaking specified in paragraph (b) is binding on the registrant,

(d) specify the procedure that the registrant may follow to be released from an undertaking specified in paragraph (b), and

(e) specify which terms of the consent order may be disclosed to the public.

Mediation

64. (1) The inquiry committee may recommend under section 33(6)(b) of the *Act* that a complaint be mediated where

(a) the inquiry committee determines that the issuance of a citation under section 37 of the *Act* is not warranted, and

(b) the complainant and the registrant agree to mediation.

(2) Following a recommendation under subsection (1), the inquiry committee must appoint a mediator who is acceptable to the complainant and the registrant.

(3) The mediator must conduct the mediation process in accordance with the terms of a written mediation contract executed by the complainant and the registrant.

(4) Where an agreement between the complainant and the registrant is reached through mediation, the terms of the agreement may be approved by the inquiry committee.

(5) Where the term of an agreement between the complainant and the registrant reached through mediation requires the registrant to undertake or consent to an action referred to in section 36, the inquiry committee may request the registrant to make such an undertaking or consent where the inquiry committee considers the undertaking or consent to be appropriate in the circumstances.

(6) Where an agreement is approved by the inquiry committee under subsection (5), the inquiry committee must report the resolution of the matter to the board and must retain a copy of the agreement on file.

(7) Where an agreement is not reached through mediation, the mediator must refer the matter back to the inquiry committee and may recommend that the inquiry committee take one or more actions under section 35 of the *Act*.

Citation for disciplinary hearing

65. (1) On the direction of a panel of the discipline committee, the registrar may join one or more complaints or other matters which are to be the subject of a discipline hearing in one citation as appropriate in the circumstances.

(2) On the direction of a panel of the discipline committee, the registrar may sever one or more complaints or other matters which are to be the subject of a discipline hearing as appropriate in the circumstances.

(3) On the direction of a panel of the discipline committee, the registrar may amend a citation issued under section 37 of the *Act*.

(4) Where a citation is amended under subsection (3) prior to a discipline hearing, the amended citation must be delivered to the respondent by personal service or sent by regular mail to the respondent at the last known address for the person recorded as required in or pursuant to section 21(2) of the *Act* not fewer than [14] days before the date of the hearing.

(5) Where a citation is amended under subsection (3) prior to a discipline hearing, and the amended citation changes the date, time or place of the hearing, the registrar must notify any complainant of the amendment not fewer than [14] days before the date of the hearing.

Hearings of discipline committee

66. (1) No person may sit on the discipline committee while he or she is a member of the inquiry committee.

(2) No member of the discipline committee may sit on the panel hearing a matter in which he or she

(a) was involved as a member of the inquiry committee or

(b) has had any prior involvement.

(3) Information about the date, time and subject matter of the hearing must be provided to any person on request.

(4) The discipline committee must provide notice by registered mail or by personal service to a person who is required to attend a hearing under section 38(6) of the *Act* in the form set out in Schedule "G".

(5) All discipline hearings shall be recorded and any person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.

(6) In determining the penalty to be imposed on a registrant under section 39(1) of the *Act* the discipline committee must, after making a determination on the facts, consider a previous relevant disciplinary decision regarding the registrant or an undertaking or consent to a reprimand given by the registrant under section 36(1) of the *Act*.

Notice of disciplinary decision

67. (1) At the conclusion of a disciplinary proceeding, the board must, within a reasonable time, advise every registrant of

(a) the name of the respondents,

(b) the facts of the case,

(c) the reasons for the decision, and

(d) the disposition of the case, including the nature of any limitation or suspension, and the date it is in effect.

(2) Where disciplinary proceedings result in the limitation or suspension of a registrant's practice, the registrar must notify the college or associations responsible for the regulation of the profession of [ ] in every other Canadian jurisdiction and, on request, to any other college or association in a jurisdiction inside or outside Canada.

Retention of disciplinary committee and inquiry committee records

68. Records of the inquiry committee must be retained for not less than [6] years following the conclusion of an investigation and records of the discipline committee must be retained for not less than [6] years following the date a decision is rendered.

Registrant under suspension

69. A registrant while under suspension must not practise the profession of [ ] and must not hold him or herself out as entitled to practise during that time.

Fines

70. The maximum amount of a fine that may be ordered by the discipline committee under section 39 of the *Act* is $[35,000].

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PART 6 REGISTRANT RECORDS

The Freedom of Information and Protection of Privacy Act (the "FOIPPA") does not apply to registrants who are acting in their individual capacity as practitioners. Therefore, Part 6 of these Model Bylaws contains detailed provisions relating to registrant records so that the principles of confidentiality and protection of personal information and access to personal information contained in the FOIPPA may be extended to patients. The model provisions provided below mirror to some extent the provisions of the FOIPPA to provide for consistency in application. Note that this Part does not limit the information available by law to a party to a proceeding. Note also that, while this Part only applies to personal information which is in recorded form, any inappropriate collection, use or disclosure of unrecorded personal information may still constitute a breach of the standards of professional ethics.

Definitions

71. For the purposes of Part 6 of these bylaws,

"patient representative" means

(a) a "committee of the patient" under the *Patient's Property Act*,

(b) the parent or guardian of a patient who is under 19 years of age,

(c) after the *Representation Agreement Act* comes into force, a representative authorized by a representation agreement under the *Representation Agreement Act* to make or help in making decisions on behalf of a patient,

(d) after the *Adult Guardianship Act* comes into force, a decision maker or guardian appointed under section 10 of the *Adult Guardianship Act*, and

(e) after the *Health Care (Consent) and Care Facility (Admission) Act* comes into force, a temporary substitute decision maker chosen under section 16 of the *Health Care (Consent) and Care Facility (Admission) Act*.

The Representation Agreement Act, the Adult Guardianship Act and the Health Care (Consent) and Care Facility (Admission) Act will come into force February 28, 2000. However "committees of the person" under the existing Patients Property Act will continue to be effective indefinitely.

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Purpose for which personal information may be collected

72. No registrant may collect personal information regarding a patient unless

(a) the information relates directly to and is necessary for providing health care services to the patient or for related administrative purposes, or

(b) the collection of that information is expressly authorized by or under an enactment.

Source of personal information

73. (1) A registrant must collect personal information about a patient directly from the patient.

(2) Despite subsection (1), a registrant may collect personal information from another person if the registrant has reasonable grounds to believe

(a) that the patient has been made aware of the matters set out in section 74(1) and has authorized collection of the personal information from another person,

(b) that the patient is unable to give his or her authority and the registrant, having made the patient's representative aware of the matters set out in section 74(1), collects the information from the representative or the representative authorizes collection from another person,

(c) that compliance with subsection (1) would

(i) prejudice the best interests of the patient,

(ii) defeat the purpose or prejudice the use for which the information is collected, or

(iii) prejudice the safety of any person,

(d) that compliance with subsection (1) is not reasonably practicable in the circumstances of the particular case,

(e) that the collection is for the purpose of assembling a family or genetic history of a person and is collected directly from that person,

(f) that the information is publicly available information,

(g) that the information

(i) will not be used in a form in which the patient concerned is identified, or

(ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the patient, or

(h) that non-compliance with subsection 1 is necessary where the information is about law enforcement or anything referred to in sections 15(1) or (2) of the *Freedom of Information and Protection of Privacy Act*.

Collection of personal information

74. (1) Where a registrant collects personal information directly from the patient, or from the patient's representative, the registrant must take such steps as are, in the circumstances, reasonable to ensure that the patient or patient's representative is aware of

(a) the fact that the personal information is being collected,

(b) the purpose for which the personal information is being collected,

(c) the intended recipients of the personal information,

(d) whether or not the supply of the personal information is voluntary or mandatory and, if mandatory, the legal authority for collecting the personal information,

(f) the consequences, if any, for that patient if all or any part of the requested personal information is not provided,

(g) the rights of access to personal information provided in section 89.

(2) The steps referred to in subsection (1) must be taken before the personal information is collected or, if that is not practicable, as soon as practicable after the personal information is collected.

(3) A registrant is not required to take the steps referred to in subsection (1) in relation to the collection of personal information from a patient, or the patient's representative, if the registrant has taken those steps in relation to the collection, from the patient or patient's representative, of the same information or information of the same kind for the same or a related purpose, on a recent previous occasion.

(4) Despite subsection (1), a registrant is not required to comply with subsection (1) if the registrant believes on reasonable grounds

(a) that non-compliance is authorised by the patient concerned,

(b) that compliance would

(i) prejudice the interests of the patient concerned, or

(ii) defeat the purpose or prejudice the use for which the information is collected,

(c) that compliance is not reasonably practicable in the circumstances of the particular case, or

(d) that the information is about law enforcement or anything referred to in sections 15(1) or (2) of the *Freedom of Information and Protection of Privacy Act*.

Manner of collection of personal information

75. Personal information must not be collected by a registrant:

(a) by unlawful means, or

(b) by means that, in the circumstances of the case,

(i) are unfair, or

(ii) intrude to an unreasonable extend upon the personal affairs of the patient concerned.

Confidentiality of personal information

76. A registrant must at all times protect and maintain the confidentiality of personal information collected under sections 73, 74 and 75.

Accuracy of personal information

77. The registrant must make every reasonable effort to ensure that the information is current and is legibly, accurately and completely recorded.

Right to request correction of personal information

78. (1) A person who believes there is an error or omission in a record containing his or her personal information may request that the registrant having the record in his or her custody or control correct the information.

(2) If after receiving a request for correction under subsection (1), the registrant disagrees that there is an error or omission in the record, the registrant must note the request in the record with particulars of the correction that was sought.

Use of personal information by a registrant

79. (1) A registrant may use personal information only

(a) for the purpose of providing health care services to the patient or related administrative purpose,

(b) for a use or disclosure consistent with a purpose specified in paragraph (a),

(c) if the patient has consented to the use, or

(d) for a purpose for which that information may be disclosed by the registrant under sections 80 and 82.

Disclosure of personal information by a registrant

80. (1) A registrant must maintain confidentiality of personal information and may disclose relevant personal information only

(a) if the patient concerned has consented to the disclosure,

(b) for the purpose of providing health care services to the patient or related administrative purpose or for a disclosure consistent with either purpose,

(c) for the purpose of complying with an enactment of, arrangement or agreement made under an enactment of British Columbia or Canada,

(d) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information,

(e) to an employee of, or contractor providing services to, the registrant, if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the employee or contractor,

(f) to a lawyer acting for the registrant, for use in civil or criminal proceedings involving the registrant,

(g) where necessary to comply with the *Coroners Act*,

(h) where necessary to comply with the *Ombudsman Act*,

(i) for the purposes of

(i) collecting a debt or fine owing by a patient to the registrant, or

(ii) making a payment owing by the patient to a registrant,

(j) to an auditor, the college or any other person or body authorized by law, for audit purposes,

(k) where the registrant believes on reasonable grounds that there is a risk of significant harm to the health or safety of any person and that the use or disclosure of the information would reduce that risk,

(l) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted,

(m) in accordance with sections 82 and 89, or

(n) as otherwise required by law.

Definition of consistent purpose

81. A use or disclosure of personal information is consistent with the purposes of providing health care services to a patient or related administrative purposes under sections 79 and 80 if the use or disclosure has a reasonable and direct connection to either purpose.

Disclosure for research and statistical purposes

82. A registrant may disclose personal information for a research purpose, including statistical research, only if

(a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the [a recognized ethics committee approved by the board],

(b) any record linkage is not harmful to the individuals concerned and the benefits to be derived from the record linkage are clearly in the public interest,

(c) the head of the public body concerned has approved conditions relating to the following

(i) security and confidentiality,

(ii) the removal or destruction of individual identifiers at the earliest reasonable time, and

(iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of the [a recognized ethics committee approved by the board], and

(d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, these bylaws and any of the policies and procedures of the [recognized ethics committee approved by the board] relating to the confidentiality of personal information.

Storage and retention of personal information

83. (1) A registrant must ensure that all records

(a) pertaining to his or her practice, and

(b) containing personal information are safely and securely stored.

(2) Personal information must be retained for a period of [10] years.

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The board should establish a written policy which details methods of safe storage for physical records and records stored by electronic methods. Chapter 8 of the "Review of the Storage and Disposal of Health Care Records", Report of Dr. Shaun Peck, Deputy Provincial Health Officer to the Minister of Health and Minister Responsible for Seniors, Province of British Columbia, July, 1995, may serve as a useful precedent and is attached at page xi of these Guidelines. The board may wish to obtain legal advice regarding the time period for retention of health records. Note that recent amendments to the Limitation Act extend the time period during which litigation may be commenced in some circumstances, most notably when a minor sues for damages after he or she becomes an adult.

Manner of disposal of records

84. A registrant must ensure that records are disposed of only by

(a) transferring the record to another registrant or with the consent of the patient, to another health care agency or health care practitioner,

(b) effectively destroying a physical record by utilizing a shredder or by complete burning,

(c) erasing information recorded or stored by electronic methods on tapes, disks or cassettes in a manner that ensures that the information cannot be reconstructed, or

(d) transferring the record to the patient.

Registrant ceasing to practise

85. (1) A registrant who ceases to practise for any reason must dispose of personal information in accordance with this part, notify the college, and provide the college with a written summary of the steps he or she has taken to dispose of the personal information.

(2) A registrant must make appropriate arrangements to ensure that, in the event that the registrant dies or becomes unable to practise for any reason and is unable to dispose of the personal information, the personal information will be safely and securely transferred to another registrant.

(3) A registrant who receives personal information transferred in accordance with subsection (2) or section 84(a) must notify the patient concerned of the transfer.

Protection of personal information

86. (1) A registrant must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use,

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Protection of personal information

86. (1) A registrant must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use,

disclosure or disposal.

(2) A registrant must take reasonable measures to ensure that a third party, including a volunteer, employee of or contractor of the registrant or a health professions corporation or a student practitioner under the supervision of the registrant, does not access, collect, use, disclose, store or dispose of personal information except in accordance with the requirements of this Part.

Contracts for handling personal information

87. A registrant must ensure that, where personal information is transferred to any person or service organization for processing, storage or disposal, a contract is made with that person which includes an undertaking by the recipient that confidentiality and physical security will be maintained.

Remedying a breach of security

88. A registrant must take appropriate measures to remedy any unauthorized access, use, disclosure or disposal of personal information under this part as soon as possible after the breach is discovered, including

(a) taking steps to recover the personal information or to ensure its disposal if it cannot be recovered,

(b) taking steps to ensure that any remaining personal information is secured,

(c) notifying

(i) anyone affected by the unauthorized access including patients and other health care providers,

(ii) the college, and

(iii) law enforcement officials, where criminal action may have contributed to the unauthorized action, and

(d) modifying existing security arrangements to prevent a re-occurrence of the unauthorized access.

Patient access to personal information

89. (1) For the purposes of this section, "access to" means the opportunity to examine or

make copies of the original record.

(2) If a patient or a patient representative makes a request for access to personal information about the patient, the registrant must comply as soon as practicable but not more than [45 days] following the request by

(a) providing access to the patient or patient's representative,

(b) providing access to the remainder of the personal information where that information excepted from disclosure under subsection (3) can reasonably be severed, or

(c) providing written reasons for the refusal of access to the personal information or to any portion of the health records.

(3) The registrant may refuse to disclose personal information to a patient or patient representative

(a) where there is a significant likelihood of a substantial adverse effect on the physical, mental or emotional health of the patient,

(b) where there is a significant likelihood of harm to a third party, or

(c) if the disclosure could reasonably be expected to disclose personal information regarding another individual.

(4) Where a registrant provides access and the patient or patient representative requests a copy of the personal information, a copy must be provided if it can reasonably be reproduced.

(5) A registrant may charge a reasonable fee for the reproduction of personal information which does not exceed the fee established in Schedule "D".

(6) Subject to subsection (3), a patient under 19 years of age may have access to a record where, in the opinion of the registrant, the patient is capable of understanding the subject matter of the record.

(7) Except where authorized by the patient, a registrant must not provide access to the records of a patient who is under 19 years of age to the guardian or parent of the patient where the subject matter of the record is health care which was provided without the consent of a parent or guardian in accordance with the requirements of section 15 of the *Infants Act*.

In 1992, the Supreme Court of Canada held that, while medical records are owned by the physician who compiled the records, the patient is entitled to reasonable access to examine and copy the information contained in the records [McInerney v. MacDonald, (1992), 93 D.L.R. (4th) 415 S.C.C.]. The court also held that, in exercising this right, the patient must pay a reasonable fee for the preparation and reproduction of the records. It is expected that this same principle would apply to all health records compiled by health care practitioners.

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PART 7 HEALTH PROFESSION CORPORATIONS

Part 7 applies to professions for which there is a specific regulation permitting corporations to provide the services of the profession. This part provides for matters relating to health profession corporations which are not already covered by the Health Professions Act. These matters include the application process for obtaining a health profession corporation permit and the procedural requirements to be followed by the board during a permit revocation hearing. The authority for these provisions is contained in sections 43 & 44 of the Act.

The Health Professions Act (Part 4) provides that the board may issue a permit to a health profession corporation if it is incorporated under the Company Act and has an appropriate share structure. All directors and voting shareholders must be registrants and non-voting shareholders must be registrants of close relatives of a registrant. Generally, only registrants may provide services on behalf of the corporation unless the bylaws specifically permit other employees of the corporation to provide these services under the direct supervision of a registrant.

The bylaws should not duplicate or paraphrase any of these provisions contained in the Health Professions Act but may set out the procedures and the fees for obtaining and renewing a permit. The bylaws may set out the conditions that may be attached to a permit, including the amount of liability insurance that the health profession corporation must carry. In addition, the bylaws may provide for the procedures for a permit revocation hearing, the names which may be used by a health profession corporation and the disposition of shares belonging to a shareholder who ceases to be a registrant.

Application for health profession corporation permit

90. (1) A corporation incorporated under the *Company Act* may apply to the board for a permit to carry on the business of providing the services of [ ] to the public by delivering to the board

(a) a completed permit application in a form approved by the board,

(b) a true copy of the certificate of incorporation of the company, and

(c) a permit fee in the amount of $[ ].

(2) The president of a corporation incorporated under the *Company Act* or his or her designate must promptly advise the board in writing of any change to the information contained in the permit application.

Issuance of health corporation permit

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Part 7 applies to professions for which there is a specific regulation permitting corporations to provide the services of the profession. This part provides for matters relating to health profession corporations which are not already covered by the Health Professions Act. These matters include the application process for obtaining a health profession corporation permit and the procedural requirements to be followed by the board during a permit revocation hearing. The authority for these provisions is contained in sections 43 & 44 of the Act.

The Health Professions Act (Part 4) provides that the board may issue a permit to a health profession corporation if it is incorporated under the Company Act and has an appropriate share structure. All directors and voting shareholders must be registrants and non-voting shareholders must be registrants of close relatives of a registrant. Generally, only registrants may provide services on behalf of the corporation unless the bylaws specifically permit other employees of the corporation to provide these services under the direct supervision of a registrant.

The bylaws should not duplicate or paraphrase any of these provisions contained in the Health Professions Act but may set out the procedures and the fees for obtaining and renewing a permit. The bylaws may set out the conditions that may be attached to a permit, including the amount of liability insurance that the health profession corporation must carry. In addition, the bylaws may provide for the procedures for a permit revocation hearing, the names which may be used by a health profession corporation and the disposition of shares belonging to a shareholder who ceases to be a registrant.

Application for health profession corporation permit

90. (1) A corporation incorporated under the *Company Act* may apply to the board for a permit to carry on the business of providing the services of [ ] to the public by delivering to the board

(a) a completed permit application in a form approved by the board,

(b) a true copy of the certificate of incorporation of the company, and

(c) a permit fee in the amount of $[ ].

(2) The president of a corporation incorporated under the *Company Act* or his or her designate must promptly advise the board in writing of any change to the information contained in the permit application.

Issuance of health corporation permit

91. (1) The board may require the health profession corporation to provide liability insurance for each of its employees in the amount of at least $[1,000,000] per occurrence as a condition of the permit.

(2) A permit is valid from the issue date shown until the next [April 1].

Renewal of health profession corporation permit

92. (1) A health profession corporation which intends to continue to provide the services of [ ] to the public must, before its permit expires, apply for a renewal of the permit by delivering to the board

(a) a completed permit renewal application in a form approved by the board, and

(b) a permit renewal fee in the amount of $[ ].

(2) A renewal permit is valid until the next [March 31].

(3) The health profession corporation must promptly advise the board in writing of any change to the information contained in the most recent permit renewal application.

Health profession corporation name

93. A health profession corporation must not use a name which

(a) is identical to that under which another health profession corporation holds a valid permit issued under this part,

(b) so closely resembles the name of another health profession corporation which holds a valid permit issued under this part that it is likely to confuse or mislead the public, or

(c) contravenes section 101 of these bylaws.

Change of health profession corporation name

94. (1) A health profession corporation which intends to change its name must apply to the board, in a form approved by the board, for a certificate that the college does not object to the intended name of the health profession corporation.

(2) Section 93 applies to an application under subsection (1).

(3) The board must issue a new permit to a health profession corporation which

(i) has received a certificate that the college does not object to the intended name change, and

(ii) delivers to the board a true copy of the certificate of the Registrar of Companies showing the change of name and the date it is effective.

(4) A permit issued under subsection (3) is valid until the date on which the permit it replaces would have expired.

Health profession corporation advertising

95. A health profession corporation which carries on the business of providing the services of [ ] to the public must disclose on all letterhead and business cards, and in all other advertisements, that the services of [ ] are being provided by a health profession corporation.

Disposition of shares

96. The articles of the corporation must provide for the disposition of the shares of a shareholder who dies, ceases to be a registrant or who ceases to be qualified to practise the profession.

Instead of requiring the articles to provide for the disposition of shares, this provision may set out the specific manner for their disposition.

Provision of services

97. For the purposes of section 42(2)(b) of the *Act*, an employee of the health profession corporation who is not a registrant may, under the direct supervision of a registrant, perform those health profession services referred to in section [ ] of the regulation, except the following services

(a) [specify those services that may not be performed].

This provision is optional and should be deleted where it is not appropriate for employees of the corporation to provide professional services.

(3) The board must issue a new permit to a health profession corporation which

(i) has received a certificate that the college does not object to the intended name change, and

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Hearings respecting revocation of permits

98. (1) The powers and duties of the board set out in section 44 of the *Act* are delegated to the discipline committee.

(2) A permit revocation hearing may be consolidated with a hearing conducted under section 38 of the *Act* where there is a similarity of subject matter between the two hearings.

(3) The discipline committee may conduct an oral hearing or a hearing by written submission to determine if a health corporation permit should be revoked.

(4) The discipline committee may conduct a hearing on the receipt of a written complaint or on its own motion.

(5) The registrar must provide notice of a permit revocation hearing by personal service or by registered mail to the registered office of the health profession corporation not less than [30] days before the date of the hearing.

(6) The notice of permit revocation hearing must

(a) name the health profession corporation as respondent,

(b) describe the matter that is to be the subject of the hearing, including the particulars of any evidence in support of that subject matter,

(c) where the hearing is to be an oral hearing,

(i) specify the date, time and place of the hearing,

(ii) advise the respondent that the discipline committee is entitled to proceed with the hearing in the absence of representatives of the health profession corporation, and

(iii) advise the respondent that the respondent and the college may appear as parties and with counsel at a hearing,

(d) where the hearing will be conducted by written submission

(i) specify the date of the hearing, and

(ii) advise the respondent that the respondent is entitled to submit a written submission no later than [14] days prior to the date of the hearing.

(7) At an oral permit revocation hearing of the discipline committee

(a) the testimony of witnesses shall be taken on oath, which may be administered by any member of the discipline committee, and

(b) there shall be a full right to cross examine witnesses and call evidence in defence and reply.

(8) Where the respondent does not attend, the discipline committee may

(a) proceed with the hearing in the respondent's absence on proof of receipt of the citation by the respondent, and

(b) without further notice to the respondent, take any action that it is authorized to take under the *Act*, the regulation or the bylaws.

(9) The discipline committee may order a person to attend an oral permit revocation hearing to give evidence and to produce records in the possession of or under the control of the person.

(10) The discipline committee must provide notice by registered mail or by personal service to a person who is required to attend an oral permit revocation hearing under subsection (9) in the form set out in Schedule "G".

(11) The board must provide written reasons for its decision.

(12) Where the board decides to revoke a permit, the board must publish a notice containing

(a) the name of the respondent,

(b) the reasons for the decision, and

(c) the date of the permit revocation.

A college may choose to set out additional or alternate procedures for the revocation of permits and for the revocation hearings.

PART 8 GENERAL

Part 8 of the bylaws contains several miscellaneous provisions requiring registrants to obtain adequate liability insurance and placing restrictions on the marketing of professional services by registrants. The authority for these provisions is found in section 19(1),(o) and (s) of the Health Professions Act.

Liability insurance

99. All registrants and their employees must be insured against liability for negligence in an amount of at least $[1,000,000] per occurrence.

Review of an account charged to a patient

100. (1) A patient may apply for a review of a fee charged by a registrant by delivering a written application to the registrar enclosing a copy of the account.

(2) The registrar must investigate the matter raised by the application.

(3) The registrar must request the registrant to provide any information regarding the account which the registrant believes is relevant to the application.

(4) The registrar must conduct a hearing within [45] days after the date on which the application for review was received by the registrar or within such further period of time as the registrar considers reasonable.

(5) The registrar may conduct a hearing by reviewing the written submissions only or may require the parties to attend in person.

(6) Where the fee under review is not in accordance with the range of fees customarily charged at the time the services were provided, the registrar must fix a reasonable fee.

(7) The registrar must deliver written notice of the decision to the patient and the registrant.

(8) The registrant must repay forthwith any amount paid by the patient exceeding the fee fixed by the registrar.

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Marketing

101. (1) In this part,

"advertisement" means the use of space or time in a public medium, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public, or a segment thereof, for the purpose of promoting professional services or enhancing the image of the advertiser,

"marketing" includes

(a) an advertisement,

(b) any publication or communication in any medium with any patient, prospective patient or the public generally in the nature of an advertisement, promotional activity or material, a listing in a directory, a public appearance or any other means by which professional services are promoted, and

(c) contact with a prospective client initiated by or under the discretion of a registrant.

(2) Any marketing undertaken or authorized by a registrant in respect of his or her professional services must not be

(a) false,

(b) inaccurate,

(c) reasonably expected to mislead the public,

(d) unverifiable, or

(e) contrary to the public interest in the practice of the profession.

(3) Marketing violates subsection (2) if it

(a) is calculated or likely to take advantage of the weakened state, either physical, mental or emotional, of the recipient or intended recipient,

(b) is likely to create in the mind of the recipient or intended recipient an unjustified expectation about the results which the registrant can achieve,

(c) implies that the registrant can obtain results

(i) not achievable by other registrants,

(ii) by improperly influencing a public body or official, or any corporation, agency or person having any interest in the welfare of the recipient,

(iii) by any other improper means, or

(d) compares the quality of services provided with those provided by

(i) another registrant,

(ii) a person authorized to provide health care services under another enactment, or

(iii) another health profession.

(4) A registrant must not

(a) state publicly that he or she speaks on behalf of the college unless he or she has been expressly authorized by the board to state the official position of the college, or

(b) endorse or lend himself or herself as a [ ] to the advertisement of any property, investment or service for sale to the public [unless such property, investment or service relates directly to the profession].

(5) A registrant who, in any advertisement, includes a statement of fees for a specific service

(a) must ensure that the statement sufficiently describes the fees and services so as to enable the recipient or intended recipient to understand the nature and extent of the services to be provided and the cost to the patient, and

(b) must not in the advertisement compare the fees charged by the registrant with those charged by another registrant.

(6) Unless otherwise authorized by the *Act*, the regulations, these bylaws, or the board, a registrant

(a) must not use the title "specialist" or any similar designation suggesting a recognized special status or accreditation on any letterhead or business card or in any other marketing, and

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(b) must take all reasonable steps to discourage the use, in relation to the registrant by another person, of the title "specialist" or any similar designation suggesting a recognized special status or accreditation in any marketing.

(7) A registrant must retain for one year after the date of publication or broadcast of any advertisement or brochure, and must provide to the board upon request

(a) a copy of any such publication

(b) a recording of any such broadcast made by use of any electronic media, including radio, television and microwave transmission, and

(c) a written record of when and where the publication or broadcast was made.

(8) It is the duty of the registrant, when called upon by the discipline committee, inquiry committee, or the board to do so, to verify the statements made in his or her marketing.

(9) Registrants who limit their practices to certain branches or areas of the profession may state in any marketing the branch or area to which the practice is restricted.

The Supreme Court of Canada considered the issue of restricting advertising by members of a profession in Rocket v. Royal College of Dental Surgeons of Ontario (1990), 71 D.L.R. (4th) 68, [1990] 2 S.C.R. 232, 73 O.R. (2d) 128n, 40.A.C. 241. In this case, the Supreme Court of Canada held that while the freedom of speech protection contained in the Canadian Charter of Rights and Freedoms includes commercial speech such as advertising, this right must be balanced with the need to protect the public. Therefore, professional regulatory bodies may regulate advertising by their members but the restrictions should impair the right to freedom of expression as little as possible. The court provided further detail by drawing a distinction between restrictions about information on standardized products and restrictions on claims that are inherently not easy to verify. It concluded that regulations aimed at promoting professionalism and preventing irresponsible and misleading advertising on matters not susceptible of verification should clearly be permitted.

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SCHEDULE A Code of Ethics
(section 1)

The Code of Ethics should establish general principles to guide registrants in meeting their duties to the public and to the profession. The authority for establishing the Code of Ethics is found in s. 19(1)(L) of the Health Professions Act. The Code of Ethics for each profession will vary to some extent according to the nature of the services being provided and whether members of the profession generally practise as employees or in private practice. Some of the areas that should be included in the Code of Ethics include the duty to maintain patient confidentiality, the duty not to withdraw services to a patient except in the appropriate circumstances, the duty not to discriminate, the duty to practise with integrity and other general duties to clients, to the profession and to the college. Colleges may wish to consider the Codes of Ethics of other professions, including the Canadian Nurses Association "Code of Ethics for Nursing", 1991 and the Canadian Medical Association "Code of Ethics", 1996. For a discussion of the duty of the board and committee members to avoid conflicts of interest, please refer to page vi of these Guidelines.

SCHEDULE B Standards of Practice

(section 1)

The purpose of the Standards of Practice is to set out minimum standards to ensure that registrants do not practise in an incompetent manner. The authority for making Standards of Practice is found in section 19(1)(k) of the Health Professions Act. The Standards of Practice, like entry level requirements, should be designed to reflect the knowledge, skills and abilities required to provide the professional service in a competent manner. The Standards of Practice should not contain any extraneous requirements or anti-competitive elements and should only be introduced where they can reasonably be expected to reduce the potential for harm to the public. Because these are minimum standards, a breach of the Standards of Practice by a registrant may give rise to a complaint and investigation resulting in disciplinary action.

Note that, in addition to these Standards of Practice, the board may wish to issue a set of higher standards with the aim of promoting and encouraging excellence in professional practice. These higher standards are often called Practice Guidelines. A breach of the Practice Guidelines is likely to be more difficult to enforce given that they are not minimum standards and do not form part of the bylaws..

The quality assurance committee is responsible for reviewing these Standards of Practice and recommending changes to the board. Although many of the Standards of Practice will be specific to the profession, some general topics that the board should consider covering include the delegation of duties to student registrants and non-registrants and specific procedures to be followed or equipment that must be used in providing certain services.

SCHEDULE C Electoral Districts
(section 3)

The boundaries of any electoral districts established in section 3 of the Model Bylaws may be set out here. These boundaries may be defined by a map or by a metes and bounds description.

SCHEDULE D Maximum fees for information requests

(section 41)

1	For applicants other than commercial applicants:		
	(a)	for locating and retrieving a record	$7.50 per 1/4 hour after the first 3 hours,
	(b)	for producing a record manually	$7.50 per 1/4 hour,
	(c)	for producing a record from a machine readable record	$16.50 per minute for cost of use of central mainframe processor and all locally attached devices plus $7.50 per 1/4 hour for developing a computer program to produce the record,
	(d)	for preparing a record for disclosure and handling a record	$7.50 per 1/4 hour,
	(e)	for shipping copies	actual costs of shipping by method chosen by applicant,
	(f) (i)	photocopies and computer printouts	$.25 per page (8.5 x 11, 8.5 x 14), $.30 per page (11 x 17),
	(ii)	floppy disks	$10.00 per disk,
	(iii)	computer tapes	$40.00 per tape, up to 2400 feet,
	(iv)	microfiche	$10.00 per fiche,
	(v)	16 mm microfilm duplication	$25.00 per roll,
	(vi)	35 mm microfilm duplication	$40.00 per roll,
	(vii)	microfilm to paper duplication	$.50 per page,
	(viii)	photographs (colour or black and white)	$5.00 to produce a negative $12.00 each for 16" x 20" $9.00 each for 11" x 14" $4.00 each for 8" x 10" $3.00 each for 5" x 7",
	(ix)	photographic print of textual, graphic or cartographic records (8" x 10" black and white)	$12.50 each,
	(x)	hard copy laser print, B/W, 300 dots/inch	$.25 each,
	(xi)	hard copy laser print, B/W, 1200 dots/inch	$.40 each,
	(xii)	hard copy laser print, colour	$1.65 each,
	(xiii)	photomechanical reproduction of 105 mm cartographic record/plan	$3.00 each,
	(xiv)	slide duplication	$.95 each,
	(xv)	plans	$1.00 per square metre,
	(xvi)	audio cassette duplication	$10.00 plus $7.00 per 1/4
	(xvii)	video cassette (1/4" or 8 mm) duplication	$11.00 per 60 minute cassette plus $7.00 per 1/4 hour of recording; $20.00 per 120 minute cassette plus $7.00 per 1/4 hour of recording,
	(xviii)	video cassette (½" duplication	$15.00 per cassette plus $11.00 per 1/4 hour of recording, and
	(xix)	video cassette (3/4") duplication	$40.00 per cassette plus $11.00 per 1/4 hour of recording.
2	For commercial applicants		
	for each service listed in item 1		the actual cost of providing that service.

SCHEDULE E Approved training programs

[section 48(1)(a)]

The training programs approved under section 48 of the Model Bylaws may be set out in this schedule..

SCHEDULE F Fees for examinations and registration
(Part 4)

1. Application fees are:

(a) for full [or grandparented] registration $[ ]
(b) for full [or grandparented] registration (part-time) $[ ]
(c) for limited registration $[ ]
(d) for non-practising registration $[ ]
(e) for temporary registration $[ ]
(f) for student registration $[ ]

2. Examination fees are:

(a) for full [or grandparented] registration $[ ]
(b) for limited registration $[ ]
(c) for re-examinations $[ ]

3. Initial registration fees are:

(a) for full [or grandparented] registration $[ ]
(b) for full [or grandparented] registration (part-time) $[ ]
(c) for limited registration $[ ]
(d) for non-practising registration $[ ]
(e) for temporary registration $[ ]
(f) for student registration $[ ]

4. Registration renewal fees are:

(a) for full [or grandparented] registration $[ ]
(b) for full [or grandparented] registration (part-time) $[ ]
(c) for limited registration $[ ]
(d) for non-practising registration $[ ]
(e) for temporary registration $[ ]
(f) for student registration $[ ]

5. Fees listed in sections 3 and 4 of this Schedule will be prorated on a [quarterly] basis for a registrant who practises for less than a full year.

6. For the purposes of this Schedule, "part-time" means less than [25] hours per week.

On an administrative basis, and where appropriate, a college may wish to consider offering payment options to registrants with respect to annual fees including payroll deduction, direct debit from a registrant's bank account, direct payment schedules and interest free loans.

SCHEDULE G Order to attend hearing of discipline committee
(sections 66 and 98)

IN THE MATTER OF THE COLLEGE OF [ ] OF
BRITISH COLUMBIA

and

IN THE MATTER OF A HEARING PURSUANT TO
[SECTION 37 AND/OR SECTION 44] OF THE *HEALTH PROFESSIONS ACT*
INTO THE CONDUCT OF [ ]

ORDER

TO:

TAKE NOTICE that you are required to attend to testify as a witness at the time, date and place set out below, pursuant to the provisions of [section 38 and/or section 44] of the *Health Professions Act*, S.B.C., c.50. You are also required to bring with you all documents in your possession or power relating to the matters in question in this proceeding.

Please note the provisions of the *Health Professions Act* and the bylaws of the College of [ ] reproduced on the back of this Order.

TIME:

DATE:

PLACE:

Dated:

_____
Member, Panel of the Discipline Committee
responsible for the conduct of the hearing

FORM 1 Statutory declaration
(Part 4)

CANADA PROVINCE OF BRITISH COLUMBIA IN THE MATTER OF AN APPLICATION FOR REGISTRATION IN THE COLLEGE OF [ ]

I, _____, of_____ in the city of _____ , in the Province of British Columbia do solemnly declare that:

1. I have not been convicted in Canada or elsewhere of any offence that, if committed by a person registered under the *Health Professions Act*, would constitute unprofessional conduct or conduct unbecoming a person registered under these bylaws except as follows:

2. My past conduct does not demonstrate any pattern of incompetency or untrustworthiness which would make registration contrary to the public interest.

3. I am a person of good character.

4. My entitlement to practise [ ] has not been limited, restricted or subject to conditions in any jurisdiction at any time except as follows:

5. At the present time, no investigation, review or proceeding is taking place in any jurisdiction which could result in the suspension or cancellation of my authorization to practise [ ] in that jurisdiction except as follows:

6. I have read the *Health Professions Act* of British Columbia and the regulations and bylaws of the College of [ ] made pursuant to that *Act*.

7. I will practise at all times in compliance with the *Health Professions Act* of British Columbia and the regulations and bylaws of the College of [ ] made pursuant to that *Act*.

AND I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

_____
Signature of Applicant

DECLARED before me at the city of _____, in the Province of British Columbia, this ___ day of_____, (year).

_____
A Commissioner for taking Affidavits in British Columbia

FORM 2 **Certificate of registration**
(section 54)

COLLEGE OF [ ] OF BRITISH COLUMBIA

Certificate No. _____

CERTIFICATE OF REGISTRATION

The board of the College of [ ] hereby certifies that _____ of _____ in the City of _____, Province of British Columbia, has met the qualifications provided for in the bylaws of the College made pursuant to the *Health Professions Act*, and is duly qualified to practise [ ] as a _____ registrant of the College of [ ] of British Columbia.

GIVEN under the seal of the board at _____, British Columbia, this _____ day of _____.